



VOL. CXIV.

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LEGACIES FOR ENDOWMENT

THOSE making or revising their Wills may like to consider benefiting some selected aspect of Church Army Social or Evangelistic work by the endowment of a particular activity—thus ensuring effective continuance down the years.

Gifts—by legacy or otherwise—will be valued for investment which would produce an income in support of a specific object, of which the following are suggestions:—

1. Training of future Church Army Officers and Sisters.
2. Support of Church Army Officers and Sisters in poorest parishes.
3. Distressed Gentlemen's Work.
4. Clergy Rest Houses.

Preliminary enquiries will be gladly answered by the

Financial Organising Secretary

THE CHURCH ARMY

55 Bryanston Street, London, W.1

A Recommendation to Mercy

In recommending a bequest or donation to the RSPCA you may confidently assure your client that every penny given will be put to work in a noble cause. Please write for the free booklet "Kindness or Cruelty" to the Secretary, RSPCA, 105 Jermyn Street, London, S.W.1.

REMEMBER THE

RSPCA

MISS AGNES WESTON'S ROYAL SAILORS RESTS

PORTSMOUTH (1881) DEVONPORT (1878) GOSPORT (1948)

Trustee in Charge:
Mrs. Bernard Currey

All buildings were destroyed by onerous action, after which the Rests carried on in temporary premises. At Devonport permanent quarters in a building purchased and converted at a cost of £50,000 have just been taken up whilst at Portsmouth plans are well advanced to build a new Rest when permission can be obtained. Funds are urgently needed to meet heavy reconstruction commitments and to enable the Trustees to continue and develop Miss Weston's work for the Spiritual, Moral and Physical Welfare of the ROYAL NAVY and other Services.

Gifts may be earmarked for either General or Reconstructive purposes.

Legacies are a most welcome help

Not subject to Nationalisation.

Contributions will be gratefully acknowledged. They should be sent to the Treasurer, Royal Sailors Rests, Buckingham Street, Portsmouth. Cheques, etc., should be crossed National Provincial Bank Ltd., Portsmouth.

Official Advertisements, Tenders, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Miscellaneous Advertisements 24 words 6s. (each additional line 1s. 6d.)

Box Number 1s. extra.

Latest time for receipt—9 a.m. Wednesday.

BOROUGH OF BRIGHOUSE

Appointment of Deputy Town Clerk

APPLICATIONS are invited from solicitors with local government experience for the appointment of Deputy Town Clerk at a salary of £735 per annum, rising by annual increments of £25 to a maximum of £810 per annum.

The appointment will be subject to the National Scheme of Conditions of Service, to the provisions of the Local Government Superannuation Act, 1937, to the passing of a medical examination and to two months' notice in writing on either side.

Suitable housing accommodation at a reasonable rent, will be made available, if required by the successful applicant.

Applications, stating age, qualifications and full particulars of experience, together with names of three referees, should be received by me not later than Thursday, August 24, 1950.

Canvassing either directly or indirectly is prohibited, and applicants should state in their applications whether to their knowledge they are related to any member of, or the holder of any senior office under, the Council.

JOHN R. LIDDLE,
Town Clerk.

Town Hall,
Brighouse.

YIEWSLEY AND WEST DRAYTON URBAN DISTRICT COUNCIL

Appointment of Clerk and Solicitor of the Council

APPLICATIONS are invited for the above-mentioned appointment from Solicitors with good local government experience.

The salary attaching to the post will be £1,050 per annum, rising to £1,250 per annum by annual increments of £50.

The Council have adopted the Memorandum of Recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks, and the duties and conditions of service therein mentioned will apply to the appointment.

The appointment will also be subject to:—
(a) The passing of a medical examination.
(b) The provisions of the Local Government Superannuation Act, 1937.

(c) Three months' notice on either side.
The occupier of the post will be required to reside either within the district or a reasonable distance thereof.

Applications, stating age, qualifications and experience, together with copies of two recent testimonials, must reach me not later than Saturday, September 2, 1950.

Candidates should also state whether or not they are related to any member or senior officer of the Council.

Canvassing, directly or indirectly, will disqualify.

A. C. KENNEDY,
Clerk of the Council.

Council Offices,
Yiewsley.

BOROUGH OF NEWARK-ON-TRENT

Appointment of Assistant Solicitor

APPLICATIONS are invited for the above appointment at a salary in accordance with Grade VII of the A.P.T. Division (£635 × £25 to £710 per annum).

The appointment is subject to (a) the Local Government Superannuation Act, 1937, (b) the passing of a medical examination, (c) the National Conditions of Service, (d) one month's notice on either side, (e) disqualification by direct or indirect canvassing. There are possibilities of promotion.

Applications, stating age, qualifications and experience, with the names and addresses of two persons to whom reference may be made and stating relationship (if any), to any members or senior officer of the Council, to be delivered to the undersigned, not later than August 26, 1950.

J. H. M. GREAVES,
Town Clerk.

Municipal Buildings,
Newark-on-Trent.

WREXHAM RURAL DISTRICT COUNCIL

Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of an assistant solicitor in my office at a salary within Grades A.P.T. V(A) or VII of the National Scheme of Conditions of Service according to experience.

Previous local government experience is not essential but candidates should have had experience of conveyancing, county court and magisterial work and will be required to assist in the general legal work of the office.

The Wrexham Rural District Council is one of the largest rural authorities in England and Wales and is engaged on extensive programmes relating to housing, sewerage and water supply and the successful candidate will receive wide experience in the administration of the Housing and Public Health Acts and in the other work of a progressive local authority.

The appointment will be subject to determination by one month's notice in writing on either side and to the provisions of the Local Government Superannuation Act, 1937, and the National Joint Council's Scheme of Conditions of Service. The successful applicant will be required to pass a medical examination.

Applications, stating age, qualifications and experience, together with copies of two recent testimonials, must be delivered to the undersigned not later than Monday, August 28, 1950, in envelopes marked "Assistant Solicitor."

Canvassing either directly or indirectly will be a disqualification and relationship to any member or senior officer of the Council must be disclosed.

TREVOR L. WILLIAMS,
Clerk and Solicitor.

Imperial Buildings,
Regent Street,
Wrexham.

COUNTY BOROUGH OF EAST HAM

Town Clerk's Department

Town Planning Assistant and Committee Clerk

APPLICATIONS are invited for the above appointment at a salary in accordance with Grade A.P.T. III (£450 × £15—£495) plus London weighting.

Form of application (which must be delivered to me not later than August 28, 1950), and details of the duties attaching to the post may be obtained from the undersigned.

H. A. EDWARDS,
Town Clerk.

Town Hall,
East Ham, E.6.
August, 1950.

COUNTY BOROUGH OF OLDHAM

Second Assistant Solicitor

APPLICATIONS are invited for the appointment of an Assistant Solicitor at a salary in accordance with the National Joint Council's Scale as under:

(a) After admission and on first appointment within A.P.T. Division, Grade Va (£550—£610 per annum).

(b) After two years' legal experience from date of admission within A.P.T. Division, Grade VII (£635—£710 per annum).

Local Government experience is desirable but not essential.

Applications, with copies of two recent testimonials, must be received by me not later than Saturday, August 26, 1950.

Canvassing will be a disqualification.

EDWARD HAINES,
Town Clerk.

Town Hall, Oldham.

COUNTY BOROUGH OF MERTHYR TYDFIL

Appointment of Assistant Solicitor

APPLICATIONS are invited from Solicitors for the appointment of Assistant Solicitor in the Town Clerk's Department at a salary in accordance with Grade A.P.T. VII of the National Joint Council Scales of Salaries (£635 × £25—£710 per annum).

Applicants who must be not more than 45 years of age, must have a sound knowledge of conveyancing and should have had considerable experience of advocacy. Applicants must have had at least two years' experience in the Local Government Service and will be required to attend certain meetings of the Committees of the Council. The appointment will be subject to the National Joint Council's Scheme of Conditions of Service and the Local Government Superannuation Act, 1937, and the successful candidate will be required to pass a medical examination. The appointment will be subject to one month's notice on either side.

Applications marked "Assistant Solicitor," stating age, qualifications and experience must be delivered to the undersigned not later than Thursday, August 24, 1950. Canvassing, either directly or indirectly, will be a disqualification, and applicants shall disclose any relationship within their knowledge to a member or senior officer of the Council.

T. S. EVANS,
Town Clerk.

Town Hall,
Merthyr Tydfil.

Justice of the Peace and Local Government Review

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Price 1s. 8d.

NOTES of the WEEK

Continuity of Readership

In a postscript to a letter at p. 226, *ante*, a correspondent spoke of his firm's long readership of this paper, and we printed a footnote saying we should like to know of other cases. The response has been most gratifying. It may be that the dozen firms who have written are not all of those who could show an exceptional length of time as readers, but their geographical distribution indicates that in the nineteenth century, as in the middle of the twentieth, we could claim a wide circle of friends. The correspondence has brought incidentally to light the remarkable fact mentioned at p. 337 by Mr. Whiteside, that in 116 years three persons only have held the clerkship to the Exeter justices. Having managed to survive two world wars, the second not without some perils due to paper shortage, as well as the more normal incidents of a long life, we feel entitled to hope that the statesmen will compose their differences, and the scientists find some means of working off their ingenuity, without again disturbing the peaceful interchange between editor and readers, so that, in due course, 200 J.P.N. (set up, perhaps, on an atomic linotype) may exchange congratulations with the successors of the gentlemen who have displayed their professional longevity this year.

The Prosecutor and s. 28 of the Criminal Justice Act, 1948

Before the coming into force of s. 29 of the Criminal Justice Act, 1948, a prosecutor, in deciding whether to suggest to a magistrates' court that an indictable case should be tried summarily under s. 24 of the Criminal Justice Act, 1925, had to have regard to the character and antecedents of the accused. Character and antecedents are no longer, at that stage, relevant matters for the consideration of the prosecution in cases under s. 24 of the 1925 Act, but the same cannot be said of cases to which s. 28 of the Criminal Justice Act, 1948, applies. Here the position is that if application in that behalf is made by the prosecutor before the charge has been entered upon the court may then determine to try the case summarily (s. 28 (1)). Under this procedure the summary court has no power, after conviction, to commit to quarter sessions for sentence. Moreover, the power under s. 28 (6) to change from summary to indictable procedure must be exercised before the close of the prosecution's case and the decision to exercise it cannot, therefore, be influenced by any question of character and antecedents.

It appears to us that this casts upon the prosecutor a duty, in considering whether or not to make application under s. 28 (1) to have regard to the character and antecedents of the accused. If in the opinion of the prosecutor these are such that the summary court, on conviction, might feel that its powers of

punishment in the particular case were inadequate we think he should make no application under s. 28 (1). The case has then to be proceeded with under s. 28 (2) and, subject to the other provisions of s. 28, the summary court may then at any time, after hearing representations from both parties, determine to try the case summarily. If this procedure is followed and a summary conviction results the summary court in a suitable case can take advantage of the provisions of s. 29 (1) of the Criminal Justice Act, 1948, and commit to quarter sessions for sentence.

This is, in our view, a practical question and a matter of some importance. We know of one case in which a summary court, on a charge under s. 28 of the Road Traffic Act, 1930, found itself having to impose on a man with a bad record what it considered to be a wholly inadequate sentence because the prosecutor had applied under s. 28 (1) for the case to be tried summarily. Had the prosecutor made no such application a summary conviction on procedure under s. 28 (2) would certainly have been followed by a commitment to quarter sessions for sentence.

Consent to Adoption

The Adoption of Children Act, 1949, s. 3 (3) provides that where a person whose consent to the making of an Order is required does not attend in the proceedings a document signifying his consent is to be admissible as evidence of the consent provided that the person in whose favour the order is made is named or otherwise described in the documents. There are certain other requirements which are not relevant here. The view has been taken that if the person consenting is not aware of the identity of the adopter, the latter cannot, being unknown to the consenter, be described by him. To overcome this difficulty the wording of the corresponding section in the 1950 Act (s. 4 (1)), has been altered to read "a document signifying his consent to the making of the order shall, if the person in whose favour the order is to be made is named in the document or (where the identity of that person is not known to the consenting party), is distinguished therein in the prescribed manner, be admissible as evidence of that consent." This change of wording seems clearly to achieve the purpose apparently intended by the present s. 3 (3).

The Matrimonial Causes Act, 1950

Many of our readers will wish to note the passing on July 28, 1950, of the Matrimonial Causes Act, 1950, which is to consolidate various enactments relating to matrimonial causes in the High Court, and to declarations of legitimacy, of validity of marriage, and of British Nationality with such corrections and improvements as may be authorized by the Consolidation of Enactments

(Procedure) Act, 1949. In other words, it is a consolidating, but not an amending Act. The statutory provisions relating to divorce, judicial separation, decrees of nullity of marriage, restitution of conjugal rights, proceedings for decree of presumption of death and consequent dissolution of marriage, declaration of legitimacy, alimony, maintenance and custody of children, and other allied matters are here collected together and it will be a great convenience for practitioners and others. The schedule lists the enactments which are repealed. It is to be noted that s. 11 of the Matrimonial Causes Act, 1937, which includes adultery among the grounds on which a wife may apply for an order under the Summary Jurisdiction (Married Women) Act, 1895, and gives a right to a husband to apply on the same ground, is left standing. The new Act is to come into operation on January 1, 1951.

The Adoption Act, 1950

No sooner have we become familiar with the Law of Adoption as amended by the Act of 1949, and learned to find in the various statutes where the relevant provisions are than our labours in the last named respect are rendered valueless by the passing of the consolidating Act, the Adoption Act, 1950. It is undoubtedly much more convenient for all concerned to have the provisions assembled together in one Act, and our only regret is that the procedure authorized by the Consolidation of Enactments (Procedure) Act, 1949, has prevented certain practical amendments being made which might with advantage have found their place in a consolidating and amending measure.

We dealt at 114 J.P.N. 27 with the effect of the 1949 Act, and we do not think that any further comment on the present state of the law on this important subject is called for now. In sch. 5 of the 1950 Act, which deals with transitional provisions, para. 11 enacts that any rules and regulations made under enactments repealed by the new Act are to continue in force and to have effect as if made under the corresponding provision of the new Act. The new Act comes into operation on October 1, 1950.

Speed Limits

In a circular letter dated July 19, 1950, the Minister of Transport calls attention to the fact that with the revocation of Defence Regulation 70A(1) the Motor Vehicles (Speed Regulation) Order, 1943, has ceased to have effect. This means that steel-wheeled agricultural trailers are subject now to the five miles per hour speed limit laid down in the sch. 1 to the Road Traffic Act, 1930 (as substituted by sch. 1 of the 1934 Act) and that a motor car constructed to carry not more than seven persons exclusive of the driver, when drawing a gas trailer, is no longer exempt from a speed limit outside built-up areas. We imagine that there are not many vehicles which are still drawing gas trailers, especially now that petrol is no longer rationed except by the increase in its cost.

The Dangers of the Roads

In the *Quarterly News Letter* of the Pedestrians' Association for July, 1950, we find two matters on which we should like to comment.

From the report on the twenty-first annual meeting we take the following extract: "Colonel Hamilton said that he had followed up the deputation by writing to the Home Secretary asking whether it would not be a good thing to circularize all magistrates to impress on them that when trying motor cases they must bear firmly in mind that they were there to protect the public." If the word "trying" is used to mean deciding on the innocence or guilt of the person charged, we feel it should be pointed out that the duty of magistrates in trying any criminal

case is to decide it justly on the evidence which is adduced, bearing always in mind that the onus is on the prosecution to prove its case beyond reasonable doubt. The fact that the offence is one in connexion with the driving of a motor vehicle should have no effect at all on the mind of the magistrates at that stage. When they come, if they convict, to the question of penalty we agree that the need for enforcing a proper standard of conduct by road users in order to reduce the serious casualty list is one of the matters properly to be borne in mind.

The other matter on which we should like to comment is the suggestion that men with a criminal record should not be eligible for driving licences. The ground on which this is put forward is that good driving is a matter of character, self-control, patience and consideration for others as well as of technical ability to pass a test, and that people with criminal records show themselves to be lacking in at least some of those vital qualities. We note from another page of the news letter that this matter was raised in the House of Commons by Brigadier Medlicott, and that the Minister of Transport replied that "licensing authorities have no power to refuse a driving licence to an applicant on the ground that he has a criminal record; nor do I consider it right that any such wide power should be conferred upon them." The idea of refusing licences to such persons is superficially attractive, but there are obviously practical difficulties and objections. At what stage is the record to become one which justifies the refusal of a licence? What is the answer when the man who has always earned his living as a motor driver says that he is being driven to crime because he is refused a licence which is essential to his means of livelihood? We can well believe that with the prevalence of crimes committed with the aid of motor vehicles the police would welcome some practical means of preventing criminals from driving cars, but since the criminal is often prepared to steal a car to facilitate the commission of some other crime, he is unlikely to be bothered by the fact that he is not licensed to drive it. In any event we do not see how there could be any general prohibition of the licensing of persons with criminal records. It might be possible to empower courts in cases other than actual driving offences to disqualify a convicted person for driving, but the problem is full of difficulties.

Weights and Measures

A perusal of the reports of the Chief Inspector for Buckinghamshire and for Kent for the year ending March 31, 1950, brings home to the reader the multifarious duties which have now to be performed on behalf of the public by these very important officers. There can be no doubt that these duties are performed on behalf and for the benefit of the public, who have no other effective means of ensuring that they get a fair deal in making their daily purchases.

Each of the two reports gives a list of the statutes and regulations administered by the department. In the main these lists agree, and in that given for Kent there are twenty-seven items and in that for Buckinghamshire there are twenty-six. They cover a wide field—weights and measures, food and drugs, merchandise marks, fertilisers and feeding stuffs, Shops Acts, and so on. It is pleasing to note that the inspectors are able to report that their relations with the shopkeepers and others with whom their work brings them into daily contact are generally very satisfactory and friendly, and that advantage is taken of the service which the department can offer such as by verifying and stamping weights and measures, and analysing feeding stuffs and fertilisers. With regard to the latter, the Buckinghamshire report notes a marked decline in the samples taken, and calls attention to the value of this work to everyone keeping livestock, or growing crops.

Both reports agree that the position with regard to the sale of coke is most unsatisfactory because the Weights and Measures Acts do not apply to coke. In this matter the Kent report notes that only spasmodic checks can be made by using certain sections of the Merchandise Marks Act, 1887. The Buckinghamshire report states, in dealing with sales of coal and coke, that the high percentage of short weight, particularly in coke, reveals an unsatisfactory state of affairs, and it urges that the fraudulent practice of roundsmen can be proved only by the fullest co-operation between inspector and purchaser.

To judge from the variety of duties performed, with the very large number of tests, etc., which have to be made in the course of the work it would seem that the staffs engaged are by no means excessive. Buckinghamshire has a chief inspector and a deputy chief, with seven other inspectors and other staff amounting to thirteen, including eight technical assistants. Kent has a chief and deputy chief inspector with nine other inspectors, sixteen technical assistants and two clerical officers. The inspectors must have a comprehensive knowledge of the many Acts and regulations which they are called upon to administer and their task is no easy one.

Population Estimates

All local authorities, or at any rate their financial and statistical officers, know, but some other of our readers who would be interested may have overlooked, that estimates of the population of every borough and of every urban and rural district in England and Wales, as at June 30 each year, are made by the General Register Office and published early in the following year, in a special pamphlet issued in advance of the Registrar General's Annual Statistical Review for the year to which the figures relate. This pamphlet is entitled "Estimates of the Population of England and Wales" and is obtainable from H.M. Stationery Office, P.O. Box 569, London, S.E.1., price 4d. net, postage extra. The latest issue, published early this year, relates to the populations at June 30, 1949, and contains also an estimate of the population under fifteen years of age in each area. Aggregate populations for counties and regions (standard and geographical)

are also given. The figures include merchant seamen at home and abroad and members of the armed forces stationed in each area. The same figures are used by medical officers of health in calculating local birth and death rates, and by the Ministry of Health in the computation of Exchequer grants. In addition to this annual publication, there was, in 1948 and 1949, a special estimate made of the distribution of the population by sex and thirteen age groups in each local authority area at December 31, 1947. This is intended to bridge the gap until the results of the next census become available, and was published under the title "Estimates of the Sex and Age Distribution of the Civilian Population." This larger publication also is obtainable from H.M. Stationery Office, as above, at the price of 2s. 6d. net, postage extra.

Temple Bar

A recent issue of *The Times* reported discussion at the Court of Common Council on the subject of returning Temple Bar to London. It is easy to urge that the proper place for Temple Bar is at the western entry to the City, for which it was designed, or, if putting it there is now impossible, then somewhere in the neighbourhood. It is not so easy either to arrange for the heavy expense of bringing back so large an object, or for a site where it can be put. The site favoured at the moment seems to be at the Embankment end of Middle Temple Lane, but there are physical and even legal difficulties. The ground between the Embankment and the block of buildings known as "Temple Gardens" is by no means free from subsoil water: many tenants and former tenants of that building have at times found a foot of Thames water in their coal cellars. There is the underground railway only just below the surface of the lawn, and Temple Bar is not only large but very heavy. If however it could be arranged for it to be put upon the site suggested, not the least of the gains would be that it would partly mask, and distract the eye from, "Temple Gardens" itself, which is one of the least satisfactory productions of Victorian architecture. It would also still serve the purpose of a gateway. Unless it can be made to span some road, its return could only be as a curiosity like the Marble Arch, in which case it had better stay away.

COMMITTAL OF JUVENILES FOR TRIAL

The Lord Chief Justice, speaking at a recent conference of the Magistrates' Association at Sheffield, repeated an admonition which has been addressed by High Court judges to magistrates frequently in recent years, and especially since the case of *R. v. Bodmin Justices, ex parte McEwen* [1947] 1 All E.R. 109. It should now be clear enough, and well enough known among magistrates, that they ought not to use their powers under s. 24 of the Criminal Justice Act, 1925, to try summarily any case which the gravity of the offence or other circumstances (such as the complexity of legal issues involved), make appropriate for trial by jury; and that this applies whether or not summary trial involves a reduction of the charge (as in the *Bodmin* case) from one which is triable only on indictment to one which is triable summarily.

The question arises, however, how far the principles of these judicial pronouncements apply to juveniles. So far as we are aware the remarks of the judges on this subject, whether made on or off the bench, have rarely, if ever, been specifically related to children and young persons, who are tried summarily under quite distinct statutory provisions. It is the purpose of this article to examine these provisions and to consider whether any general principles can be extracted from them by which magis-

trates may be guided in deciding whether a juvenile should be tried summarily or committed for trial.

In the case of children under fourteen, the law leaves little room for differences of practice. Section 10 of the Summary Jurisdiction Act, 1879, as amended, requires that for any indictable offence except homicide a child *shall* be dealt with summarily unless he is charged jointly with an older person. If the young person or adult with whom he is charged jointly is committed for trial, the justices may also commit the child for trial "if in the interests of justice they think it necessary to do so." Doubtless in many cases in which it is necessary or proper to commit the older defendant for trial it will be in the interests of justice that the same court should deal with the child. The kind of case in which it may be appropriate to deal with the child summarily while committing the older defendant for trial is that in which the evidence shows that both have made, and are prepared to stand by, admissions of guilt. In such a case there may be good reasons for committing the older defendant for trial—the offence may be one for which an adult cannot be tried summarily—and equally good reasons for dealing summarily with the child.

It is the young person aged fourteen, fifteen or sixteen whose case is most likely to cause difficulty. By s. 11 of the Act of 1879, as amended, a young person may be tried summarily on consent for any indictable offence except homicide if the justices "think it expedient so to do, having regard to the nature of the offence and all the circumstances of the case." Almost identical words are used in s. 24 of the Act of 1925, as amended, in relation to the summary trial of adults, but there three other considerations are added—(i) the representations of the prosecutor and of the defendant; (ii) the absence of circumstances which would render the offence one of a grave or serious character; and (iii) the adequacy of the punishment which a court of summary jurisdiction has power to inflict.

It is evident that the legislature intended the power of summary trial to be exercised more freely in the case of young persons than in the case of adults. This may be inferred not only from the fact that the range of offences which can be so tried is much wider in the case of young persons, but also from the omission (which must be assumed to have been deliberate), of these three indications of the kinds of cases which should not be tried summarily. It is not suggested, of course, that it would be improper to listen to anything the parties might have to say on the subject, or to take into account the gravity of the offence charged, or (where appropriate) the greater powers of punishment available to assizes or quarter sessions; but if proper effect is to be given to the presence of these words in the Act of 1925, the effect of their absence in the Act of 1879 must be to reduce the weight of the considerations to which they relate. In the case of a young person, they are part of the "circumstances of the case" which the court must consider.

Less weight, for instance, might be attached to the representations of the police, as prosecutors, that a young person should be committed for trial. Such representations might be made for a variety of motives—they might desire to "make an example," to secure a convenient delay in which further inquiries may be made, or even to make lawful the publication of the name of the accused, or to remove the case from a court whose methods the prosecutor did not approve: none of them, it is submitted, would be a proper reason for declining to try a juvenile summarily, and indeed it is difficult to imagine a case in which the mere wishes of the prosecution would justify committal for trial. Representations by the defendant need hardly be considered here. If the defendant wishes to be tried by jury he can insist on it, and any reasons he may be able to advance against a suggestion that he be committed for trial will no doubt be considered for what they are worth. His mere wish to be tried summarily carries no more weight than the wishes of the prosecution.

The Act of 1948 has left little or no difference in the powers of magistrates' courts and higher courts in regard to punishment. A young person aged sixteen convicted on indictment may, it is true, be sent to borstal direct, but though a magistrates' court may not do this it may in a suitable case commit to quarter sessions with a view to borstal, so that in this respect there is no disadvantage in summary trial. There is also a class of cases for which provision is made by s. 53 of the Children and Young Persons Act, 1933, under the heading "Punishment of certain grave crimes." For manslaughter, attempted murder or wounding with intent to do grievous bodily harm, power is given on conviction on indictment to order detention for a period to be specified by the court, the place and conditions of detention being decided by the Secretary of State, who has a discretion to discharge on licence. This power is to be exercised only where the court thinks no other method suitable, but its existence gives good reason for carefully considering the desirability of committing for trial where one of these three "grave

crimes" is charged. Except for a difference which is largely academic, in the amount of fine which may be imposed, the only remaining point at which the powers of punishment at quarter sessions and assizes exceed those of magistrates' courts is that a young person aged fifteen or sixteen may be committed to prison on conviction on indictment, whereas on summary conviction he may not.

The gravity of the offence in itself, as distinct from the punishment which it merits, can rarely, it is submitted, be a ground for committing a young person for trial. The statute specifically empowers magistrates to try juveniles for any offence except homicide, and does not suggest that they are to try only offences which are not serious ones of their kind, or that they should commit for trial merely because they are shocked or disgusted by the facts disclosed by the evidence. It has been suggested that a grave offence ought to be tried with all the solemnity of an assize court, or that no one ought to be found guilty of it except by the judgment of his peers: but there seems to be little substance in these arguments in face of the explicit provisions of the statute. Parliament has thought fit to enact that a juvenile may be tried summarily, if he consents, for rape or attempted murder, which must always be grave offences.

There remains the consideration which is common to adult and juvenile defendants, that of expediency, having regard to the circumstances of the case. *Prima facie* the expedition and simplicity of summary proceedings will always make summary trial expedient, and the only circumstance which may possibly influence the court towards committal (other than those which we have already discussed) seems to be the complexity of any legal issues which may be involved. It is true that where difficult decisions on points of law have to be made it is in theory better that they should be made by a judge, or by a court of quarter sessions which will usually have for chairman a lawyer of some standing, than by a bench of lay justices advised by their clerk. In practice, however, the most difficult points of law are often those which could never have been anticipated at the beginning of the hearing, and this is especially true in juvenile courts. There may be occasional cases in which a legal representative of either side will warn the justices in advance that he intends to raise a legal question, and which the justices might for this reason prefer to commit for trial: but in our experience such cases are very rare in juvenile courts.

It appears therefore that (joint trials and "grave crimes" apart) there is only one kind of case in which there may be substantial reasons for committing a juvenile for trial—the case in which a defendant is aged fifteen or sixteen and may need to be sent to prison. Even this class can be further reduced, because there are few sixteen-year-old offenders, if any, whom a judge, or quarter sessions, would today prefer to send to prison instead of borstal. The real difficulty is in the case of the fifteen-year-old defendant, who cannot be sent to borstal and whom the magistrates cannot send to prison. Unfortunately it is true that there are some boys of fifteen who have already shown themselves unsuitable for approved school training and all the less drastic methods at the disposal of the juvenile courts, and for whom, because they are not old enough for borstal, the only hope of reformation is in a long prison sentence during which the Prison Commissioners will endeavour to provide the kind of training appropriate to the prisoner's youth and record. In such a case committal for trial seems the only course open to a juvenile court which is unwilling to let loose the offender yet again upon the public who have suffered so much at his hands.

In these cases, however, the court is in a dilemma even worse than that of the adult courts in the days before the Act of 1948,

when *R. v. Sheridan* and *R. v. Grant* (1936) 100 J.P. 319; 324 prevented committal after a plea or finding of guilt. In those days the requirement that the character and antecedents of the accused should be considered before a decision was taken as to summary trial did at least give an opportunity to single out at that stage the offender whose record seemed to justify a longer sentence than the magistrates could impose. Section 29 of the Act of 1948, by giving power to commit for sentence after conviction, made prior knowledge of the record unnecessary, and accordingly the reference to character and antecedents was deleted from s. 24 of the Act of 1925. At the same time, however, the corresponding words were deleted from s. 11 of the Act of 1879, and the power to commit for sentence was not applied to young persons. The position is therefore that if a

magistrates' court is to decide to commit a young person for trial it must do so without hearing his record: and if it tries him summarily and then finds that its powers are inadequate, it can send him to a higher court only if he is sixteen and then only for borstal training or one of the methods which it could itself have used.

This position may of course itself be evidence that the legislature did not contemplate that magistrates would often find it inexpedient to try juveniles summarily: in practice, we understand, most of the more experienced juvenile courts commit for trial only rarely and in exceptional cases. Until the High Court disapproves of this, or Parliament legislates against it, we see no reason why the present practice should not continue.

THE FORM AND AUDIT OF JUSTICES' CLERKS' ACCOUNTS

"Large sums of money pass through the hands of the justices' clerks in the form of fees, fines and other payments. These amounts in the great cities to many thousands of pounds a year, and the total for the whole country is certainly well over a million pounds. In these circumstances the importance of satisfactory methods of accounting and an efficient system of audit are obvious. Neither can be said generally to exist at the present time." These are the words of the Departmental Committee on Justices' Clerks whose report (Cmd. 6507) was published in 1944.

As is well known the accounting records to be kept by clerks to justices are prescribed by the Summary Jurisdiction Rules, 1915, as amended. The principal book of account is the Fine and Fee Account which contains a record of all fees, fines and other sums received by clerks and has to be rendered to the local authority in the form prescribed in the schedule to the Summary Jurisdiction Rules, 1915, or a form to the like effect prescribed by the local authority under the Justices' Clerks' Act, 1877.

Rules 10 and 11 deal with fines of which payment is deferred or is to be made by instalments, providing *inter alia*, that though the whole of the sum may not have been paid or recovered, the instalments received shall be accounted for at such times and in such manner as the local authority may direct.

An instalment ledger must also be kept. Rule 13 requires the clerk to enter on the day of its receipt each sum of money received by him on any account whatever. Each instalment so received must be entered in the instalment ledger to an account to be opened in respect of the proceedings in which the sum is paid. In every case in which a court of summary jurisdiction has ordered payment to be made through one of its officers or some other person under s. 30 (1) of the Criminal Justice Administration Act, 1914, or under s. 1 of the Affiliation Orders Act, 1914, a separate account must be kept by the person to whom the money is ordered to be paid, and the receipt and payment of moneys must be entered therein.

In the prescribed form of Remitted Fees Book there must be recorded the amount of fees remitted with the reason for remission in each case, the entry to be signed by the justice, or two or more justices authorizing such remission.

So far as accounting principles are concerned, the rules of 1915 are little, if at all, in advance of the Summary Jurisdiction Rules of 1886, on which they are largely based. The comment of the Departmental Committee reads thus: "In some areas the accounting methods appear to be satisfactory, elsewhere they leave much to be desired. There is no generally prescribed

or uniform procedure as to the receipt or disposal of money. Payments are made to the warrant officer or to the assistant who happens to be most easily available. Frequently receipts are not given and there is no system of cross-checking to prevent irregularities. There is no requirement that these moneys should be paid into a public banking account and we have had evidence that in some cases no separate banking account is kept, and money received is in many cases mixed with the office petty cash." The lack of elementary safeguards in accounting for cash which is the responsibility of justices' clerks can only be described as deplorable, particularly as many warnings of the dangers of the present methods have been uttered. For example, in 1933 a justices' clerk charged with fraudulent conversion had paid fine moneys into his banking account, which the Judge said was a most slack and improper method, going on to remark that it was a wonder to him that the Home Office, who exercised supervision over magistrates' clerks, had not long ago made it a regular rule for all justices' clerks that they ought to have a separate account into which all moneys received from public business ought to be paid and kept apart from their own moneys.

The value of an audit of accounts is widely recognized on all sides and many statutes regulating the affairs of both the world of commerce and that of public service require the appointment of qualified auditors. The auditor renders service not only as a watch dog but increasingly as a financial adviser because often out of his wide experience he is able to suggest to the particular business or service ways in which its financial administration can be improved. It is the more regrettable therefore that the accounts of justices' clerks are almost alone amongst the accounts of public officers in not being subject to a statutory audit. The justices' clerks themselves recognize that an alteration is required and in evidence before the Departmental Committee stressed the desirability of a compulsory and comprehensive audit.

The Departmental Committee thought that the remedy for the unsatisfactory accounting methods to which they referred at para. 197 of their Report (which we have quoted earlier), rested in statutory provision for an audit, and went on to consider whether responsibility for such an audit should be placed centrally or locally. With one dissentient they agreed that the balance of advantage lay in the audit being carried out by local authorities, who should be county councils or councils of the larger boroughs outside grouping schemes. Where more than one authority is involved in a grouping scheme one authority should be selected to carry out the audit. The reason given in favour of local audit was that the machinery is already in existence and it would therefore be easy for a running audit to be

maintained. The Committee remarked that as the local auditors would only be concerned with matters of accountancy and office administration and not with the judicial functions of justices, there would be no suggestion of the dependence of justices upon local authorities and no opportunity for local authorities to put improper pressure on justices. They had heard no criticism of existing local audits on the ground of interference with the judicial discretion of justices, and they anticipated none in future if the system were applied generally.

The proposals for local audit did not find favour with Sir Claud Schuster, whose memorandum is attached to the Report. He advocated a central audit, on the grounds that under the Committee's proposals the financial concern of the ratepayers in the matter will in most cases disappear, that the interest of the central authority will not be secured by local audit, that the experience gained in one locality will not be immediately available for the benefit of other areas and that any deficiency in the amounts collected by the officers of the court will have to be met from the central fund. Sir Claud may have been unaware of the arrangements which the professional societies of accountants have for disseminating information. In the case of justices' clerks' accounts one society particularly concerned would be the Institute of Municipal Treasurers and Accountants and it is safe to say that knowledge gained by practical experience is made available quickly and readily to all members of the Institute. The other arguments in the memorandum seem to mean that an efficient audit cannot be carried out unless the auditors, or their employers, have a financial interest in the accounts under audit. It is difficult to accept this contention which experience does not support. For example, local authorities have no financial interest in the collection of motor tax but have successfully carried out a running audit for many years with the approval of the central department concerned; and the amount of motor tax cash handled is of course much larger than that which passes through

justices' clerks' accounts. It should be remembered also that local authorities are required by s. 27 (4) of the Justices of the Peace Act, 1949, to meet not less than one-third of the deficiency between the sums receivable and payable by the Exchequer and accordingly are concerned that the deficiencies should be as small as possible. Also s. 28 enacts that responsible authorities must make good any defaults of justices' clerks.

Section 27 (9) of the Act enables the Secretary of State, with the concurrence of the Treasury, to make regulations as to the keeping, inspection and audit of accounts of justices' clerks but no date has yet been fixed from which this section of the Act, dealing with the application of fines and fees and payment of expenses of courts, is to come into operation. We hope that there will be no long delay in introducing an improved and modernized system of accounting, and in modelling such a system we feel certain that the Home Office would be much helped by the advice of representatives of the justices' clerks and of the societies of local government financial officers, who have much experience on these matters.

With regard to examination of the accounts it is a matter of some importance that not only is there at present no audit, but there is also no obligation upon a justices' clerk to place his accounts before his justices. They do not know therefore, for example, whether the fines they have adjudged as proper sentences have in fact been any punishment at all. When the regulations are being framed the views of the Departmental Committee as to the most suitable method of audit will no doubt exercise their proper influence. If, nevertheless, provision is made for central audit we hope that the system will be wasteful neither of manpower nor money, and would commend the provisions of certain Stipendiary Magistrates' Acts which provide for audit by the District Auditor. In practice this audit is supplemented by a local running audit, thus ensuring a complete examination and utilizing both central and local machinery already in existence.

"PARKS AND PLEASURE GROUNDS"

[CONTRIBUTED]

The growing popularity and efficiency of the model aeroplane adds another complication to the art of parks management: see "Pleasure and Planes," p. 192, *ante*. In the larger kind of open space the problem is not nearly so acute as in the town park or pleasure ground, an area of restricted size which has to serve all the varying needs of a substantial population: the old and the young, those in invalid chairs and those in perambulators, the players of tennis and the players of impromptu rounders, the lovers of flowers and the lovers of music, the vigorous and the aesthetic—all have a claim. Act of Parliament, local byelaw, and common law all have their use in the art of maintaining that compromise between the "rights" of the individual in his dual capacity as a separate person and as one of the whole which is "the public," answering, e.g., the question, "Why can't I kick a football about on the grass?" or its opposite, "Why should my walk continuously be interrupted by a football kicked across my path?"

The main power of the local authority to provide and control a park or pleasure ground is in s. 164 of the Public Health Act, 1875, though there are powers in the Open Spaces Act, 1906, which are sometimes a useful supplement or substitute. The section gives power to provide public walks or pleasure grounds and to make byelaws for their regulation. Section 44 of the Public Health Acts Amendment Act, 1890, empowers the local authority on such days as they think fit (not exceeding twelve days in any one year or four consecutive days on any

one occasion) to close any park or pleasure ground provided by them, or any part of it, and to grant the use of the same either gratuitously or for payment to any public charity or institution or for any agricultural, horticultural, or other show or other public purpose, or to use the same for any such show or purpose. Admission may on these days be with or without payment as directed or approved by the authority, but no park or pleasure ground is to be closed under the powers of s. 44 on a Sunday or on a public holiday.

By s. 76 of the Public Health Acts Amendment Act, 1907, subject to rules of the Minister of Health, now the Home Secretary: see S.R. & O. 1946, No. 1757 (none have ever been made), a local authority with respect to any public park or pleasure ground provided by them can set apart ground, as described in a notice board, for cricket, football or other game or recreation, and exclude the public from the part set apart whilst it is in actual use; can provide or arrange for the provision of apparatus for games and charge for its use, provide and charge for chairs or arrange for their provision, provide and maintain reading rooms, etc., and charge for admission, but in the case of reading rooms a charge for use may not be made for more than twelve days in the year or for more than four consecutive days (no limit as to Sundays and public holidays, as in the case of the closing of the park), and may provide refreshment rooms. Section 56 of the Public Health Act, 1925, extends s. 76 of the 1907 Act by including therein authority to charge reasonable

sums for the playing of games on the part set apart, as well as to charge for the use of apparatus.

Section 132 of the Local Government Act, 1948 (the entertainments section), empowers the local authority amongst other things to set apart any part of the park or pleasure ground not exceeding one acre or one-tenth of the area of the park, whichever is the greater, for the provision of entertainments.

Under the Physical Training and Recreation Act, 1937, local authorities have powers, *inter alia*, to provide playing fields, etc. The administration of playing fields is a different matter from looking after the parks or pleasure grounds provided under the Public Health Act, not many of which are large enough to provide playing fields on ground "set apart." The ground set apart in a park is more often for the games that take up less room, such as bowls and tennis, but, so far as a football or cricket pitch can be provided, the power in the 1907 Act is sufficient.

The behaviour of users of the park is often governed by byelaws made under s. 164 of the Public Health Act, 1875, for which the Home Office supply two models, taken over from the Ministry of Health, *viz.*, series X and series Xa. These serial numbers, also, were taken over from the Ministry—see the list at *Lumley*, p. 1107. Series X is comprehensive, meant to contain all the provisions which will ordinarily be needed. Series Xa is an abbreviated version, designed originally for parish councils, who by virtue of s. 8 (1) (d) of the Local Government Act, 1894, have the same power of making byelaws as is given to other authorities by s. 164 of the Act of 1875, but a headnote suggests that the latter authorities may find it useful for grounds not requiring very detailed control. By appropriate byelaw any particular bad behaviour can be made an offence punishable summarily. Parks byelaws of local authorities, like other byelaws, must pass the judicial tests, and whenever proceedings are taken under the byelaws the challenge may come that a byelaw is, *e.g.*, unreasonable. And the byelaws are equally binding upon the making authority as upon others within their provisions.

The general law provides summary procedure for some offences which occur in parks. Damaging trees in parks and pleasure grounds provided the damage exceeds £1 is an offence under s. 20 of the Malicious Damage Act, 1861, but the consent of the accused is necessary before the offence can be tried summarily. If the damage though not exceeding £1 is at least 1s., the offence is triable summarily whether the accused consents or not (s. 22). Section 24 of the same Act concerning damage to cultivated roots and plants, etc., used for the food of man or beast, apart from questions as to its applicability to a park where the herbage, *e.g.*, is not grown for food, has been held not to apply to inappreciable damage, such as is committed by a trespasser walking on the grass: *Ely v. Lytel* (1885) 50 J.P. 308. This case does more than show that the familiar "Please Keep Off the Grass" is not enforceable in the ordinary case. It concerned the wilful playing of football in a field, and the court held that an offence had not been committed either under s. 24 or under s. 52 of the same Act, now replaced by s. 14 (1) of the Criminal Justice Act, 1914, concerning wilful or malicious damage not exceeding £20, to real or personal property.

The judicial test that byelaws must be reasonable is the best guide as to how far regulation by byelaw can go. In the case of the public park or pleasure ground with much grass, a byelaw requiring the public (for whom the ground is provided and by whom, through the council, it is maintained), to keep off all grass would be palpably unreasonable. A byelaw prohibiting playing football might or might not be, depending upon circumstances. Such a prohibition on a large area of open rough grass might be unreasonable, but large areas are seldom found

in urban parks. The use of, *e.g.*, bowling greens and tennis courts might conveniently be regulated by byelaw supplementing the statutory power to set aside ground for such games; and so also might the use of the park on those occasions when it is closed to the public be so regulated. In the absence of such regulation awkwardness is at a premium and, short of a breach of the peace, might go unchecked.

It is therefore understandable that executive officers, such as park keepers, and many councillors, are often anxious to have further and more drastic byelaws; on the other hand the most experienced administrators rather shrink from adding to the mass of law by making byelaws unless the need is clearly seen. A headnote to model series X remarks: It seems to be sometimes thought that, wherever a local authority provides or controls a pleasure ground, byelaws must be made. This is found even when the ground has formerly been opened to the public by private owners, who had not the power of making byelaws. It is, however, doubtful whether grounds where the public are subject to a multitude of byelaws are better managed than those where reliance is placed upon the general law and ordinary good feeling. This, of course, is a matter where the local authority's own acquaintance with the manners (if any), habits, and customs of the local population is the best guide. Byelaws, moreover, can be very hard to express in terms. The best may make an offence of conduct which on occasion could not very well be the subject of prosecution. A byelaw against displacing plants might pass as reasonable, but it would be unenforceable in the case, *e.g.*, of the innocent steps of a young child straying on to a flower bed. Moreover, byelaws are no substitute for human supervision. The preserving of a bowling green from damage sufficient to prevent skill from earning its full reward by the public walking over it when bowlers are not there is often not so easy as the bowlers are apt to think it ought to be. Whether byelaws would escape judicial challenge which sought to exclude all but authorized players is questionable. The park attendant's presence is no less necessary where byelaws are in operation—but rather the more so, so that breaches may be detected.

Although byelaws are local regulations, byelaws made to cover common evils should not differ from place to place more than is necessary. Herein lies the value of the model series. It can be followed closely, though not heedlessly; otherwise, general enactment and not local byelaw would be appropriate. In many cases the model can be used although the offences are not likely to arise often. A byelaw, *e.g.*, against riding bicycles through the park can be appropriate if few persons are likely to try and do so—a reasonable apprehension that such will occur is necessary. The statutory time limit of ten years, as the period of operation of a byelaw unless re-enacted and reconfirmed, does not apply to these byelaws as it does to building and water byelaws, but it is a salutary exercise for a local authority, or its responsible committees, to look at all its byelaws every ten years or so, with a view to weeding out provisions which no longer correspond to public opinion. When new byelaws are made, the necessity for ministerial confirmation is a brake against proliferation and the possibility of judicial test at any time is a check on both local authority and Minister.

The provision of public parks and pleasure grounds is a power of the local authority and not a duty. So also is the making of byelaws. This has a bearing upon the liability of the local authority for accidents to users. In no case has the presence or absence of a byelaw been the deciding issue, and generally the authority is not liable unless the park contains a trap or unless premises get dangerous. This latter aspect is particularly important where children's play apparatus, such as swings and roundabouts, are provided and allowed to become defective in structure: *Purkis v. Walthamstow Borough Council*

(1934) 98 J.P. 244. Or where glass is not removed from a children's puddling pool: *Ellis v. Fulham Borough Council* [1937] 3 All E.R. 454; 101 J.P. 469. The extent to which an attendant should be provided in a children's playground does not seem any clearer than the powers and duties of such an attendant if he be appointed. In the *Purkis* case a boy of twelve fell off a swing because of giddiness. An attendant was present. The local authority was held not liable.

As to games in the park, the spectator must take inherent risks, but a user of a park injured, e.g., by the football negligently kicked by a youth in a part not set apart for the game of football would probably have a remedy—against the kicker, not against the local authority, even, apparently, if an attendant were on duty. If a bylaw prohibited the playing of football in that part of the ground and a park keeper made no effort to stop offending play the position might be otherwise. But whether or not a remedy lies at law against the local authority in such a case, the bylaw would obviously be to the general advantage of the public and would give a summary remedy to the local authority which otherwise would not be available. Proceedings in the High Court for public nuisance are not practicable to

stop, e.g., sporadic footballing by various persons. This example of sporadic footballing serves to indicate the everyday usefulness of a bylaw.

When part of a park is set aside for games, notice must be set up. Some parks seem to have a multiplicity of notices, and whilst they all may have their use where byelaws are in force the provisions of the byelaws must be studied when notices are being framed. A notice not strictly in accord with a relevant bylaw might well hinder its enforcement. But this, too, is a matter of degree. The ubiquitous "Please Keep Off the Grass," sanctionless though it may be, is not likely to be in the embarrassing class. And its not unfriendly warning is often most effective. Nevertheless signs are not wanting that as a nation we are rather suffering from a "notice" complex, but apart from any question of its intrinsic necessity, no notice in a park or pleasure ground should be put up without first weighing the effect on the byelaws: incidentally (and mentioned here because it is sometimes overlooked) without making sure that the notice accurately states the terms, or at least the purport, of any bylaw to which it refers.

"EPHESUS."

WEEKLY NOTES OF CASES

CHANCERY DIVISION

(Before Vaisey, J.)

**RADNOR (EARL) v. FOLKESTONE PIER AND LIFT CO.,
AND BRITISH TRANSPORT COMMISSION**
July 20, 21, 1950

Requisition—Application of compensation—Covenants by lessee to insure premises against fire and to lay out insurance money received for loss by fire in reinstating premises—Destruction by fire during requisitioned period—Compensation (Defence) Act, 1939 (2 & 3 Geo. 6, c. 75), s. 2 (1) (b), s. 14.

ACTION.

The plaintiff claimed a declaration that the compensation money payable by the Crown under the Compensation (Defence) Act, 1939, s. 2 (1) (b), should be impressed with a trust to lay it out in repairing and re-building the requisitioned property in accordance with the provisions of cl. 17 of the lease under which the property was held, and an order the money be so laid out when received.

The pier at Folkestone was constructed under the Folkestone Pier and Lift Act, 1884. On July 9, 1891, a lease was granted by the predecessors in title of the plaintiff to the pier company of the pier and premises for 900 years at a rent of £25 a year which was subsequently increased. The pier company covenanted (*inter alia*) by cl. 16 to insure and keep continually insured against destruction by fire the pier and premises for £5,000, and, by cl. 17, that any sum received by way of insurance in case of destruction by fire should be laid out in re-building the pier and premises. On May 4, 1894, the pier company mortgaged the pier for £3,940 to the South Eastern Ry. Co., and the interest under the mortgage vested in the British Transport Commission by virtue of the Transport Act, 1947. The pier company had maintained the fire insurance up to September 3, 1940, when the pier was requisitioned by the Crown. The requisition was continued till June 24, 1945, but the fire insurance was not maintained. On May 28, 1945, the pier was destroyed by fire. It was contended that the compensation money payable under the Compensation (Defence) Act, 1939, should be treated as insurance money and laid out in re-building the pier.

Held, the compensation money was not fire insurance money, but compensation under the Act, and, by s. 14, as the pier was subject to a mortgage at the time of the fire (which was when the compensation accrued due) the compensation was to be deemed to be comprised in the mortgage.

Counsel: Sir Andrew Clark, K.C., and G. H. Newsom for the plaintiff; the Folkestone Pier and Lift Co. did not appear; Charles Russell, K.C., and H. E. Francis for the British Transport Commission. Solicitor: Bischoff and Co.; M. H. B. Gilmour.

(Reported by R. D. H. Osborne, Esq., Barrister-at-Law.)

KING'S BENCH DIVISION

(Before Lord Goddard, C.J., Hilbery and Byrne, J.J.)

NEATH U.D.C. v. WILLIAMS AND ANOTHER
July 20, 1950

Public Health—Statutory nuisance—Natural watercourse—Obstruction—Debris washed down by mountain stream—Liability of land-

owners—Public Health Act, 1936 (26 Geo. 5 and 1 Edw. 8, c. 49) s. 93, s. 259 (1) (b).

CASE STATED by Glamorgan justices.

At a court of summary jurisdiction at Neath, a complaint was preferred by the appellants, Neath U.D.C., alleging that the respondents, William David Williams and another, had failed to comply with an abatement notice under ss. 93 and 259 of the Public Health Act, 1936, served on them by the appellants and requiring them to scour out and remove certain debris, silt, boulders, etc., which were obstructing a watercourse which ran through the respondents' land.

On the hearing of the complaint the following facts were proved or admitted. The respondents were the owners of several parcels of land in the Vale of Neath. A mountain stream came down on to the respondents' land with a very steep fall. Lower down the stream, it passed through a culvert constructed by a canal company under statutory powers. The stream then flowed on to other land of the respondents, making two sharp turns in its course, and at one of these turns obstructions had arisen which held back the water through the watercourse becoming silted up and blocked up by debris washed down. As a consequence, in time of heavy rain there was flooding from the upper side of the culvert, which amounted to a nuisance. The watercourse was a natural watercourse throughout, except in so far as it passed through the culvert. The justices dismissed the complaint, and the local authority appealed.

By s. 93 (which occurs in Part III) of the Public Health Act, 1936, "Where a local authority are satisfied of the existence of a statutory nuisance, they shall serve a notice (hereinafter in this Act referred to as an 'abatement notice') on the person by whose act, default, or omission the nuisance arises or continues, or, if that person cannot be found, on the owner or occupier of the premises on which the nuisance arises, requiring him to abate the nuisance . . ." By s. 259 (1): "The following matters shall be statutory nuisances for the purposes of Part III of this Act, that is to say . . . (b) any part of a watercourse, not being a part ordinarily navigated by vessels employed in the carriage of goods by water, which is so choked or silted up as to obstruct or impede the proper flow of water and thereby to cause a nuisance, or give rise to conditions prejudicial to health: Provided that in the case of an alleged nuisance under para. (b) nothing in this section shall be deemed to impose any liability on any person other than the person by whose act or default the nuisance arises or continues."

Held, that at common law a landowner was not under any liability to do anything to keep the bed clear or remove obstructions in the case of a natural watercourse which flowed through his land; that the proviso to s. 259 (1) was designed to prevent an additional burden being cast on the landowner; and that on the facts found by the justices there was nothing to show that the respondents had done anything to cause the obstruction to arise or continue or anything which could properly be called a default on their part. The appeal must, therefore, be dismissed.

Counsel: Rowe Harding, for the appellants; H. V. Brandon, for the respondents.

Solicitors: *Sharpe, Pritchard & Co., for T. D. Windsor Williams, Neath; Seeley & Son, for Lewis C. Thomas, Son & Blazey, Neath.*
(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

REX v. SANDBACH JUSTICES: *Ex parte* SMITH

July 18, 19, 26, 1950

Child—Custody—Maintenance—Application by mother—Appropriate justices' court—Court of district wherein respondent resides—Child outside jurisdiction at time of application—Power to make order—Guardianship of Infants Act, 1886 (49 & 50 Vict. c. 27) s. 5—Guardianship of Infants Act, 1925 (15 & 16 Geo. 5, c. 45) s. 3 (2), s. 7 (1).

APPLICATION for order of *certiorari*.

At a court of summary jurisdiction for the petty sessional division of Sandbach, Cheshire, an application was made by the mother of an infant for an order for the legal custody of the infant and for its maintenance. At the time when the application was heard, the father of the infant was living at Filkins, Oxon, and the mother at Alsayer, Cheshire, while the infant was living with an aunt of the mother in Northern Ireland. Objection was taken on behalf of the father to the jurisdiction of the justices to hear the application, both on the ground that the court in Cheshire was not a court to which jurisdiction had been given under the Guardianship of Infants Acts, 1886 and 1925, and also on the ground that the infant was living out of the jurisdiction. The justices held that they had jurisdiction to hear the application and made an order giving the mother the legal custody of the infant and ordering the father to pay a weekly sum of £1 for its maintenance until it attained the age of sixteen. The father applied for an order of *certiorari* to quash the order of the justices on the ground that they had no jurisdiction to hear the mother's application or to make the order.

Cur. adv. vult.

Held, (i) that the intention of the Acts was that proceedings other than those taken in the High Court must be brought where the respondent, and not where the complainant, lived, and that the Cheshire magistrates had, therefore, no jurisdiction to make the order, and the order must be quashed on that ground; (ii) in view of the decisions in *Harris v. Harris* (113 J.P. 495; [1949] 2 All E.R. 318) and *M'Lean v. M'Lean* (1947 S.C. 79), a court must be regarded as having jurisdiction to make an order in such a case despite the fact that the infant at the time was outside the jurisdiction, but it should be regarded as most unusual, and generally most undesirable, for a justices' court especially, to make such an order.

Counsel: for the father, *Blomfield*; for the mother, *Henry Summerfield*.

Solicitors: *Stafford Clark & Co., for Soanes & Welch, Burford; Boxall & Boxall, for Norris & Mellor, Stoke-on-Trent.*
(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

(Before Lord, Goddard, C.J., Byrne and Finemore, JJ.)

REX v. BARNET, ETC., RENT TRIBUNAL. *Ex parte* REEDS INVESTMENTS, LTD.

July 26, 1950

Rent Control—Jurisdiction of tribunal—Limitation of rent—Registration—No condition attached to building licence—Landlord and Tenant (Rent Control) Act, 1949 (12, 13, & 14 Geo. 6, c. 40) s. 1 (7).

MOTION for writ of prohibition.

In July, 1945, the applicants, Reeds Investments, Ltd., applied for a building licence to construct a block of flats at Beaufort Park, London, N.W.11. In answer to questions on the application form they stated that the contract price of the building was to be £22,000 and that the flats were to be let at rentals varying from £185 to £220 a year. On October 10, 1945, the licensing authority granted a licence for the construction of twenty-seven self-contained flats at 139-165 Beaufort Park, N.W.11, at a total cost not exceeding £815 per flat. Special conditions or limitations: The work to be carried out by Messrs. George Reed & Sons, Ltd., of Estate Office Drive, N.W.11, and no other contractor may be employed without special permission. On August 20, 1948, a supplemental licence was issued, no further condition being attached. At the time of the original licence the Building Materials and Housing Act, 1945 (which provides that a licence may be subject to a condition limiting the price at which a house may be sold or the rent at which it may be let and that such condition shall be registered) had not been passed. In 1949 the local authority gave notice to the applicants that the authority intended to register under the Land Charges Act, 1925, "conditions attached to a building licence issued on August 20, 1948, under the Defence (General) Regulations, and s. 7 of the Building Materials and Housing Act, 1945, whereby the maximum exclusive rental was fixed at £220 per annum per flat." An application was made by the tenant of one of the flats to the Barnett, etc., Rent Tribunal for the reduction of his rent, and the applicants applied for a writ of prohibition to restrain the tribunal from hearing the reference on the ground that it had no jurisdiction

by reason of s. 1 (7) of the Landlord and Tenant (Rent Control) Act, 1949, which provides: "No application shall be made under this section in respect of any house . . . (b) while any limitation of the rent is in force, being a limitation imposed by or under any enactment not contained in the [Rent Restriction] Acts or this Act." The applicants contended that the application for the building licence and the licence should be read together as one document, and that, accordingly, a limitation imposed by the Land Charges Act, 1925, was in force.

Held, that, as no condition limiting the rent was attached to the building licence, the tribunal had jurisdiction to entertain the reference, the effect of the Land Charges Act, 1925, being merely to record a condition, and not to attach one. The application, therefore, must be refused.

Counsel: the applicants, *Heathcote-Williams, K.C., & Stranger-Jones*; for the tribunal, *J. P. Ashworth*.

Solicitors: *Chandler & Creek*; Solicitor, Ministry of Health.
(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

WILEY v. PEACE

July 25, 1950

Police—Search—Person stopped in street—Suspicious conduct at police station—Search at police station—Validity—Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 66.

CASE STATED by the appeal committee of Middlesex Quarter Sessions.

An information was preferred before a court of summary jurisdiction at Enfield by the respondent, Ronald Peace, a police officer, charging the appellant, Clayton Henry Wiley, with assaulting a police officer in the execution of his duty. The justices convicted the appellant, who appealed to quarter sessions, where the following facts were established. A police officer observed the appellant acting in a suspicious manner in a street—as the officer believed, loitering with intent to commit a felony—and asked him what he was doing. The appellant answered with abuse, and said that he was going to the police station to report the officer. The officer, who at the time did not suspect the appellant of being in possession of property unlawfully obtained or stolen, walked with the appellant to the police station. At the station a detective officer noticed that the appellant's pockets were bulging and that the appellant appeared to be attempting to conceal something. He asked the appellant what he had in his pockets, and, as the appellant refused to tell him, told the appellant that he proposed to search him. In the course of the search, the appellant assaulted the detective officer. No stolen or unlawfully obtained property was found on the appellant. Quarter sessions held that the officer was acting in the execution of his duty and approved the conviction, and the appellant appealed to the Divisional Court.

By the Metropolitan Police Act, 1839, s. 66: " . . . every . . . constable may . . . stop, search, and detain any vessel, boat, cart, or carriage in or upon which there shall be reason to suspect that anything stolen or unlawfully obtained may be found, and also any person who may be reasonably suspected of having or conveying in any manner anything stolen or unlawfully obtained . . ."

Held, that the right of search under s. 66 was not confined to a case where the suspicion that something stolen or unlawfully obtained was being carried had arisen in a street; that the appellant had been searched while still in the course of a journey; and that, therefore, the search came within the terms of the section. The appeal must, therefore, be dismissed.

Counsel, for the appellant, *Sir John Cameron*; for the respondent, *Gerald Thesiger, K.C., & Phipps*.

Solicitors: *Hamilton-Hill & Evershed*; The Solicitor, Metropolitan Police.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

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LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 51.

AIIDING AND ABETTING CONSUMPTION OF LIQUOR ON LICENSED PREMISES AFTER PERMITTED HOURS

The Salford stipendiary magistrate (Mr. F. Bancroft Turner) delivered on July 10, 1950, a reserved judgment in a case in which the licensee of a local public house had been charged with aiding and abetting five customers to consume intoxicating liquor after hours.

It had been argued by defending counsel that it was absurd to talk of aiding and abetting when the licensee had done everything in his power to stop the consumption, and counsel had claimed that the police were trying to "stretch the law" to cover the non-existent offence of permitting consumption after hours. The material facts appear from the judgment of the learned stipendiary magistrate, who said that he was satisfied that shortly before 11 p.m. in an area in which the last moment for the consumption of intoxicating liquor was 10.30 p.m., police officers, seeing the door of the public house open and all the lights on, entered, and found in the public bar eight or nine persons, five or six of whom had small quantities of beer or stout in their glasses. On seeing the police, these customers drank the contents of their glasses. The defendant licensee was seated at a table with his back to the room in which the customers were present, talking to two men who had no glasses in front of them. The learned magistrate stated that he accepted the evidence of the licensee, and that of his witness, that shortly after 10.30 p.m. he began telling customers to empty their glasses and even threatened some that he would take their glasses away if they did not finish their drinks.

At about 10.50 p.m., he was called over to the table by the two men with whom he was talking when the police arrived and was asked to discuss arrangements for a children's treat.

At this time, said the learned magistrate, the licensee knew perfectly well that there were five or six persons with liquor in front of them, but from then onwards until the police arrived, he did nothing to ensure that consumption did not take place or to see that the law was obeyed. He pointed out that for all customers' offences, except that of consuming after permitted hours, the Licensing Acts created substantive offences which could be committed by licensees, and he had been asked to infer from this that there was no liability on the licensee in respect of customers who consumed liquor after permitted hours.

The learned magistrate expressed the opinion that these special statutory provisions extended the ordinary law, and did not restrict it, and in his view the provisions as to aiding and abetting, etc., applied to this case as they did to other offences.

He referred to the cases of *Thomas v. Lindsay* [1950] 1 All E. R. 966 and to *Rubie v. Faulkner* (1940) 104 J.P. 161, and stated that he thought the principles laid down in the latter case applied to the case before him. The learned magistrate pointed out that under the Licensing Acts selling and consumption had to cease at the same moment and he was aware that to relieve the great difficulties in enforcing this, there was a general practice of the police to allow a short period of grace after the closing hour during which licensees were not prosecuted, provided they got their customers to drink up.

"It is really the customers who cause all this trouble. They are, to my mind, much more to blame than the licensee," said the learned magistrate, who expressed the opinion that the penalty in the circumstances should be quite a nominal one and imposed a fine of 40s.

COMMENT

This case is of particular interest at the present time, in view of the current campaign now being conducted by and on behalf of the licensed trade to secure an amendment to the law so that there is a recognized statutory period for drinking up liquor purchased before the terminal hour. It is well known not only to the police but also to all who are in touch with licensing matters, that licensees are placed in a position of extreme difficulty in this matter.

If, on the one hand, they attempt to refuse orders placed for drinks prior to the terminal hour they are, although legally entitled to do so, risking the loss of the goodwill of customers who know quite well that they are entitled to place their orders up to the terminal hour.

If, on the other hand, the licensee serves liquor right up to the terminal hour, then he is faced again with the risk of losing the goodwill of his clientele if he insists upon the liquor ordered being consumed forthwith; in these days with beer at its present price and money becoming even tighter no one would willingly gulp down his last pint!

It is true, as stated by the learned magistrate, that there is a widespread custom under which the police, in practice, give a period of grace but this arrangement must of necessity be unsatisfactory resting as it does on no law, and the custom in consequence being capable of interpretation at the will of individual police officers.

The writer does not seek to defend the licensee in the case reported above for, as the learned magistrate pointed out, it appears clear that having made his attempt to secure the completion of drinking up shortly after 10.30 p.m., he lost interest in the matter and took no further steps to secure compliance with the law.

There would seem to be no good reason why the provisions of s. 4 of the Licensing Act, 1921, which at present provide that no person shall, except during permitted hours, consume intoxicating liquor upon licensed premises, should not be amended in such a way as to enable the consumption to continue for a period of fifteen minutes after the terminal hour for supplying.

The case of *Thomas v. Lindsay* (*supra*), which was decided by the Divisional Court in April of this year, was concerned, it will be remembered, with facts not dissimilar from those reported above. In that case, customers on licensed premises who had been served with intoxicating liquor before closing time were still consuming it nearly half an hour afterwards, but it was established that the licensee had no knowledge that there were any drinks in the room or that they were being consumed. The licensee having been summoned, as was the licensee in the case reported above, for aiding and abetting contrary to s. 5 of the Summary Jurisdiction Act, 1848, and having been convicted by the justices, it was held by the Divisional Court upon consideration of a Case Stated by the justices, that for a charge for aiding and abetting to succeed it must at least be shown that the defendant knew what the principal offender was doing although it will, of course, not be necessary to show that the person knew it was an offence, because ignorance of the law cannot be pleaded.

Lord Goddard, C.J., in delivering the leading judgment, commented that it was curious that the Licensing Acts do not make it an offence for the licensee to permit the consumption of intoxicating liquor after hours. The court decided that, in the circumstances outlined above, the defendant was not guilty of aiding and abetting.

Rubie v. Faulkner (*supra*), which was also referred to by the learned magistrate, is, of course, the well-known case in which a "Supervisor," sitting beside a learner-driver in a motor car, was convicted of aiding and abetting the driver of driving without due care and attention where it was proved that the learner-driver drew out from behind a horse and cart on a pronounced bend where the road was divided by a white line and upon the engine of the car stopping there was a collision with an on-coming lorry. In that case, the court held that the fact that the supervisor did nothing to stop the learner driver overtaking, even to the limited extent of saying "Keep in," entitled the justices to find that by his passive conduct in circumstances which required him to be active, he was guilty of the offence of aiding and abetting.

R.L.H.

PENALTIES

Wiltshire Quarter Sessions—July, 1950—breaking and entering a carpet factory and stealing therefrom rugs and carpets valued at £550—seven years' preventive detention. Defendant, a thirty-nine year old wholesale fruiterer, had received previous sentences of twelve months in 1931 for shop breaking and larceny, four years' penal servitude and twelve strokes of the cat in 1932 for robbery with violence, burglary and shop breaking, and eighteen months in 1948 for burglary and larceny.

Salisbury—July, 1950—drunk and disorderly—fined £2. Defendant, a London labourer aged twenty-seven.

Salisbury—July, 1950—falsifying Army acquaintance rolls involving a total of £89 6s., (six charges)—four months' imprisonment. Defendant, a man of thirty-six employed at Bulford camp as a pay clerk, received a salary of £400 a year at the time of his offences and found himself short of money. He had previously borne an excellent character.

Leicester—July, 1950—contravention of Sale of Food and Drugs Act, 1938—fined £10. To pay £2 7s. 6d. costs. Defendant, a Co-operative Society, sold a black pudding in which was found ten inches of jute rope.

Sheffield Quarter Sessions—July, 1950—embezzling a total of £102 (five charges)—twelve months' imprisonment. It was said of defendant, a forty-eight year old solicitor's clerk, that his failure was due to excessive drinking.

Norwich—July, 1950—causing grievous bodily harm—fined £10. Defendant was involved in a scuffle with a labourer during which the labourer's jaw was fractured in two places as a result of being kicked whilst lying on the ground.

Lutterworth—July, 1950—failing to keep a record of a journey in a lorry—fined £1. Defendant, a man of twenty-two, pleaded that he could neither read nor write and therefore could not comply with the law.

REVIEWS

Halsbury's Statutes of England. Volumes 16, 18, 19 and 20. London: Butterworth and Company (Publishers) Ltd. Complete work in 27 volumes. Price 60s. per volume. Carriage and packing extra.

The fourth group of volumes (Nos. 16, 18, 19 and 20) of the second edition of Halsbury's Statutes of England, which has recently been issued, covers much ground of particular interest to readers of this journal, notably Public Health and Administration (which occupies about half of one of the volumes), Police, Public Authorities and Public Officers, and Rates and Rating. The publication of volume 17, which it is hoped will appear with the next series, has been suspended in order to enable the Patents Act, 1949, and the Registered Designs Act, 1949, to be dealt with. With nineteen of the projected twenty-seven volumes now before us it is possible to form a reliable opinion of the value of the work and particularly to estimate the degree of skill which has gone to the making of the original parts of it, namely the grouping of the voluminous subject-matter, the preliminary notes to the various main headings, and the annotations. As to the first, chronological order has obvious merits. On the other hand the collection of the statutory material and its presentation under well defined headings has the advantage of enabling the reader readily to find the whole of the subject-matter relevant to his inquiry and should ensure his not overlooking some possibly earlier Act which might otherwise well escape his attention. The grouping in this work has been skilfully done and the index to the first twenty volumes, presented with the present series, enables the reader to discover at once under which heading any particular section of an Act is treated. In the result he will obtain the guidance he requires whether his starting point is the section of a statute or some general subject. It would not be possible within the confines of a review of reasonable length to comment in detail either on the preliminary notes or on the annotations, and we must content ourselves with the observation that the high standard set by the earlier volumes has been fully maintained, and that we see no reason to depart from the favourable opinion expressed of the work in the course of earlier reviews published in this journal.

The Law List, 1950. Stevens & Sons, Ltd. Price 17s. 6d.

The Law List first appeared in 1775. For many years before the present issue its form has been substantially unchanged; the present issue will accordingly, at first sight, give a shock to all practitioners. It is substantially larger on the shelf and, internally, the lists of counsel and solicitors have been rearranged. For the first time names are printed in a double column in both these principal sections of the book. It has however been possible by careful choice of type to introduce this change without in any way impairing legibility or convenience of reference. In the section relating to the Inns of Court, the names of benchers, printed in three columns on the page, look rather tight but, after all, it is comparatively seldom that they have to be referred to. After the main list of counsel, there is a separate list of those who have their chambers in provincial towns, slightly abbreviated by omitting some of the particulars which occur in the main list, but, usually, furnished with their local telephone numbers. Then follow the sessions lists, with the officers of session and the times of assizes. Between the list of London solicitors and the country solicitors there occurs a list of suburban solicitors (that is to say, those practising in London postal districts other than those designated E.C. or W.C. or numbered 1 for postal purposes), while country as well as London solicitors have been furnished with full postal addresses. It seems to be these useful additions, to the book as one had grown accustomed to it, which have made necessary the changes in form. The new matter adds to the utility of the law lists proper, while the lists of notaries public, in London and outside, and the particulars in regard to Scottish and overseas practitioners will also be useful on occasion.

The Office and Duties of the Director of Public Prosecutions. By Sir Theobald Mathew, K.B.E., M.C. University of London: The Athlone Press. Price 1s. 6d. net.

The connexion between the office of Director of Public Prosecutions and democratic government may not be obvious, but this lecture by the present holder of that important and responsible office, delivered before the University of London in March, shows clearly that the conception of the scope of his duties and the way in which they should be carried out has much to do with the question whether or not we are to be subject to arbitrary methods at the hands of the executive. Happily the answer is plain. Neither the Director nor any government department desires that we should depart from our old ideas of the operation of the law. Sir Theobald shows how it has been held since Saxon days that the prevention of crime and the prosecution of offenders is the responsibility of us all and that our earliest conception

of what developed into the formation of police forces was on a local basis, just as the cost of prosecutions is still borne locally.

The first Director was appointed in 1879, but the department really dates from 1908. The number of prosecutions actually conducted by the Director is surprisingly small, and this in itself is enough to emphasize the absence of any bureaucratic control over prosecutions in general. It is the right, and maybe the duty, of the private individual to prosecute, though it naturally falls to the police to institute proceedings in the majority of cases. Apart from conducting prosecutions in the gravest cases, perhaps the most valuable work of the Director is the giving of advice, sometimes verbally, to police officers, and to clerks to justices.

As Sir Theobald pointed out, he, like the police, possesses few powers beyond those of every citizen, and neither he nor they can claim immunity from actions for damages if occasion should arise.

There is a certain amount of misunderstanding of the position of the Director, and it is to be hoped that this short pamphlet will be widely read and appreciated. In Sir Theobald Mathew we have a Director whose conception of his powers and duties savours more of the judicial than of the partisan attitude. So long as this continues, the public may rest confident.

Personal Descriptions. By Superintendent A. L. Allen. London: Butterworth & Co. (Publishers) Ltd. Price 7s. 6d.

"Personal Descriptions" written and illustrated by Superintendent A. L. Allen of the Metropolitan Police Training School, Hendon, makes no claim to deal with a new subject, but it does treat an important aspect of the technique of criminal investigation in a new way. The author eschews official nomenclature and writes in a form that is attractive and informative to the expert and layman alike. He improves the text by excellent illustrations which disclose no mean artistic ability.

In a foreword Sir Harold Scott, K.C.B., K.B.E., Commissioner of the Metropolitan Police, emphasizes "... the success of the detective in finding out an individual among London's teeming millions has already fascinated the man in the street, and in this little book Superintendent Allen explains how it is done. Cultivation of observation and memory, attention to detail, logical classification all play their part..." That is the theme and aim of the volume, to teach men and women to study their fellows. With the police this is imperative, and to the public the author makes the suggestion that it will be found an interesting study which can be followed in the home as well as out of doors; everyone can test the powers of observation and memory by making simple drawings.

We all realize, when we think about it, that some people are remarkably curious just as others are singularly incurious; some are keenly observant while many consistently overlook material points. "Personal Descriptions" portrays in bold outline our physical selves and in particular the human head. "Much can be learned," says the author "from books dealing with the subject, but they are generally too technical for the average person to understand."

Do we appreciate, for example, if the length of the human body is divided into seven equal parts that the normal adult head is one-seventh of the whole? Or that the correctly proportioned head may be split into three equal parts, namely from the top of the head to the eyebrows, then to the tip of the nose and thirdly to the point of the chin. A case of murder, which occurred about a quarter of a century ago, is quoted. A witness was able to supply the police with a drawing of the wanted man's face: the drawing was the result of observation and memory and was so lifelike that identity was established and an arrest followed.

The author points out, "We only see what we want to see, and what is more or less thrust upon us"; frequently we miss the salient characteristics. "We do not know how to use our eyes to the full and as a result we lose a lot of fun in life." Ears are almost as identifiable as fingerprints to the trained observer. The head, facial outline, forehead, eyes, eyebrows, nose, lips and chin are pregnant with meaning, in the sense of identity. "For purposes of identifying a person, dead or alive, the most important part of the human body is the head," says Mr. Allen. But other aspects are discussed, such as hair styles, tattooing, mannerisms, habits, mode of conversation, clothing and disguises.

One page of drawings is devoted to the configuration of the nose, ten types being depicted. A sheet of transparent paper adjoins this plate for placing over the diagrams. Then it is seen that the general outline of the nasal organ falls into a variety of triangulated shapes. In fact, to the mathematician, the nose in some types can approximate to the geometric ambiguous case in triangles. Ears are treated in similar fashion and dissected in minute and highly interesting detail.

The book is a complete physical diagnosis; deftly and expertly summarized with a clarity and simplicity that arrests attention. It will appeal to all who make contact with their fellows whether in

courts of law, as police, in schools, industry or wherever it may be. It is a worth-while addition to any library as an intellectual challenge to the discriminating reader.

MISCELLANEOUS INFORMATION

EXEMPTIONS FROM DEVELOPMENT CHARGE: EFFECT OF THE NEW REGULATIONS

On June 13, 1950, it was announced that new regulations were to be laid before Parliament exempting certain classes of development from development charges.

These regulations, the Town and Country Planning (Development Charge Exemptions) Regulations, 1950 (S.I. 1950 No. 1233), have now been approved, and replace the previous Exemption Regulations (S.I. 1948, No. 1188).

It is to be noted that the regulations refer to the new Town and Country Planning (Use Classes) Order, 1950 (S.I. 1950, No. 1131) which came into operation on July 21, 1950, and revoked the previous Use Classes Order (S.I. 1948, No. 954).

Paragraph 1 of the schedule to the regulations extends from 1,750 cubic feet to 7,500 cubic feet, the maximum amount by which a dwelling house may be enlarged, or enlarged on rebuilding, free of charge. The paragraph also provided that any building which has been enlarged by more than the exempted amount (the appropriate development charge being paid), can be rebuilt as so enlarged without charge.

Paragraph 2 exempts the lateral conversion into flats of not more than three adjacent dwelling houses erected before July 1, 1948. This provision includes the conversion of an individual house into flats (which was previously exempt) and extends to houses under requisition on July 1, 1948, and to war-damaged houses subject to a cost-of-works payment.

Paragraph 3 exempts various changes of use, mainly between classes specified in the new Use Classes Order, as follows: Subparagraph (1): The use of part of a dwelling-house as a shop. This exemption is limited to 200 square feet of floor space, and the shop must be carried on by a person living in the house. Subparagraph (2): The use of a dwelling-house which was in existence on July 1, 1948, as one of a variety of institutional and other uses, for example, a church hall, home for old people, clinic, hospital, nursing home or social centre. Subparagraph (3): The use of a shop as an office and vice versa. Subparagraph (5): Exempts changes of use between any of the special industrial classes. Subparagraph (6): Is similar to Class 7(4) of the 1948 regulations, but the range of uses has been altered.

Paragraph 5 exempts conversions of an improvements to houses, and conversions of other buildings to dwellings approved under Part II of the Housing Act, 1949. This exemption was announced during the passage of the Housing Bill.

The following is given for purposes of comparison showing the relation between the "classes" of the 1948 regulations and the paragraphs of the new regulations:

Paragraph in 1950 Regulations.	Paragraph (or "Class") in 1948 Regulations.	Remarks.
1	1	Extended
2	—	New
3	7	Extended
4	3	Unaltered
5	—	New
6	5	Unaltered
7	8	"
8	6	"
9	16	Redrafted
10	2	Extended
11	9	Unaltered
12	18	"
13	11	Extended
14	—	New
15	—	"
16	4	Unaltered
17	17	"
18	14	Heads (b) and (c) extended
19	15	Extended and redrafted
20	13	Unaltered
21	14(f)	Extended

JUVENILE ATTENDANCE CENTRES OPEN

Under s. 19 of the Criminal Justice Act, young people between the ages of twelve and twenty-one may be ordered by a court to attend an attendance centre for periods not exceeding twelve hours in all and not more than three hours on a single day if such a centre is available. The times of attendance are to be arranged so as not to interfere with education or employment.

Arrangements have been made with two police authorities and one local authority for the use of physical training facilities and workshops on Saturdays in London, Smethwick and Hull respectively. The London Centre is at Peel House, Victoria, S.W.1, and the Smethwick Centre is at the Smethwick Divisional Police Station. The Peel House Centre opened for the first time on July 8 and the Smethwick Centre opened on August 5. The third centre, at the Hull Remand Home, will open shortly.

Peel House at present serves the Toynbee Hall Juvenile Courts and the Smethwick Attendance Centre will serve the Smethwick and West Bromwich Juvenile Courts. Peel House is open on alternate weeks for boys of school age and for those of fifteen and sixteen. Here, as elsewhere, the arrangements are experimental and liable to be modified in the light of experience. It is not at present proposed to open centres for the seventeen to twenty-one age group or for girls.

In both the Peel House and the Smethwick Centres the officer in charge is a senior police officer and his staff will include police and civilian instructors. At Hull the officer in charge will be the remand home superintendent.

A scheme of instruction and occupation has been approved in each case by the Home Secretary. The general outline of a typical scheme is that on a boy's first attendance at the centre in accordance with the court order at the appointed time, the officer in charge will have a straightforward talk with him and tell him why he has been sent to

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 Ex-Services Welfare Society, Temple Chambers, Temple Avenue,
 London, E.C.4. (CENTRAL 3712.)



the centre and what is required of him. There will be an initial period of physical training followed by employment in handicrafts or by a lecture on such subjects as, e.g., citizenship, first aid, boys' clubs. Punctuality will be insisted upon; boys will not be allowed to talk or smoke but will be supervised throughout the period of attendance under firm discipline. If they do not co-operate, less attractive occupation will be given them.

The co-operation of the courts and the probation service has been sought to ensure that the centres will be used to the best advantage. Though there are difficulties, it is hoped that this will prove a valuable addition to the armoury of the juvenile courts. It is inexpensive, quick in action, and the treatment can be shortened or prolonged according to the response of the offenders.

The aim of the centre is not only to punish the boy by depriving him of his leisure but to teach him to make proper use of leisure and guide him by progressively more interesting occupation towards the activities of a boys' club. It is hoped that after completing their attendance boys will have acquired sufficient interest in group activities to continue in the club movement or in some other juvenile organization.

The officer in charge has discretion to arrange the hours of attendance on each occasion, so that a total of twelve hours may be spread over twelve Saturday attendances of one hour each or confined to four attendances of three hours according to the boy's behaviour and progress. Rules for the management of attendance centres have been made by the Home Secretary. If a boy does not attend, or commits a breach of the rules which cannot be dealt with under the rules, he may be brought up again to the juvenile court in order to be dealt with for the original offence. For reasons of discipline attendances will be held in private. The number of boys attending the centres at present are very small but will increase week by week as more attendance orders are made by the courts. The ultimate size of a class as an attendance centre will be about twenty. If numbers go over this, extra attendances may have to be arranged in the evening.

INTERNATIONAL UNION OF LOCAL AUTHORITIES

It has been decided to hold the annual conference of the British section of the International Union of Local Authorities at Southport on Friday and Saturday, October 13 and 14, 1950.

It is the practice of the British section of the Union to utilize the occasion of its own conference for the purpose of a preliminary examination of the subjects to be dealt with at the next following International Conference of the Union. By this procedure, a useful platform is provided for a rehearsal of the subjects by the British reporters and the opportunity is given to British delegates to familiarize themselves with the subjects and raise questions which it will be beneficial to submit to the reporters of the other countries.

The subjects to be discussed at the next International Conference of the Union to be held in Brighton in the fourth week of June, 1951, will be "Education" and "Water and Drainage." In the case of education, it is proposed to cover the administrative aspects ranging from nursery schools to universities. Special attention will be paid to the part played by municipalities as regards direct provision of schools, subsidies to private educational institutions, etc. The main purpose will be the study of the structure of the educational system in the various countries and the statutory provisions governing this. It is not intended to go into the question of curricula and teaching methods except in a very broad sense.

As regards water and drainage, it is proposed to survey the subject of water supply and its conservation, drainage and irrigation and sewage disposal as one single unit, each item of which is related to others. The Union began the study of sewage disposal in Glasgow in 1938, where there were gathered together some of the foremost authorities in Europe. At that conference there inevitably cropped up some aspects of water conservation, e.g., creation of ponds and reservoirs and return of the purified effluent of sewage to the land, both for irrigation and fertilizing purposes and as a means of maintaining the water levels in the catchment areas.

The Union has been studying technical subjects now for some years but it should be emphasized that it limits itself to the broad administrative problems and does not go into the technical profundities of such subjects. The Union has found by experience how advantageous it is to bring together administrators from various countries, members and officers, and technical and professional experts, whether they be members of professional or research groups or technicians in administrative charge of actual services.

It is felt that the international exploration of these two subjects is of outstanding interest; education on account of its creative possibilities in every realm of thought and action and the other subjects as likely to produce ideas for utilizing the resources of nations to improved advantage, and so, in the words of Mr. Acheson, "helping to create new crops, new wealth, in places where none existed before."

CORRESPONDENCE

[The Editor of the *Justice of the Peace and Local Government Review* invites correspondence on any subject dealt with in its columns, for example, magisterial matters, probation, local government, etc.]

The Editor,

*Justice of the Peace and
Local Government Review*

DEAR SIR,

CONTINUITY OF READERSHIP

I have the *Justice of the Peace* and all *Reports* bound from 1837 until 1949. I keep them in a glass book-case which is locked and the key of which is deposited in my private safe.

Any of my legal friends locally are only too welcome to make use of my J.P.'s, but I have made a rule that a volume must not leave the office.

Yours faithfully,

J. T. COGGINS.

Foster, Wells and Coggins,

Solicitors,

Aldershot.

[We are greatly obliged. The postscript to Mr. R. Sandford's letter at p. 226, *ante*, and the invitation in our editorial footnote appended thereto, has resulted in a most gratifying response—Ed., J.P. & L.G.R.]

The Editor,

*Justice of the Peace and
Local Government Review.*

DEAR SIR,

PLAYING ON NAMES

Another pleasant pastime which has regrettably gone out of fashion, is the making of anagrams on names. There was for instance a certain John Paterson who took as his motto I HATE NO PERSON, and Thomas Houpe (Hope) who carved on his doorway AT HOSPEL HUMO. I have spent many pleasant hours endeavouring without success to anagrammatize my own name into a sensible epigram. Good luck to others!

Yours faithfully,

J. M. ROSS.

64, Wildwood Road,
London, N.W.11.

[Other correspondence to be found overleaf.—Ed., J.P. & L.G.R.]

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at the

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In a typical year upwards of 250 animals belonging to poor owners receive recuperative and veterinary treatment at the Home, including horses whose owners have been called up for military service. Loan horses are supplied to poor owners to enable their charges to enjoy a much-needed rest.

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to carry on this work. When drawing up wills for your clients, please remember to include The Home of Rest for Horses, Boreham Wood, Herts.

HOME OF REST FOR HORSES, WESTCROFT STABLES, BOREHAM WOOD, HERTS.

The Editor,

Justice of the Peace and
Local Government Review

DEAR SIR,

MAGISTRATES' JURISDICTION AFTER DIVORCE

I was interested in your paragraph under this heading in your issue of July 29. Some time ago and in similar circumstances, I communicated with the Registrar of the Divorce Court concerned and achieved a similar result. Oddly enough, I am to-day making a similar application to the Registrar of the Divorce Court.

I regret now that my earlier experience was not communicated to you at the time, but the action which I then took seemed such a simple one as not to be of sufficient interest to advise you of it.

Yours faithfully,

JOSEPH WILLS,
Clerk to the Justices.

Magistrates' Clerk's Office,
Market Street,
Barrow-in-Furness

The Editor,

Justice of the Peace and
Local Government Review.

DEAR SIR,

THE UNIVERSAL PROBLEM OF JUVENILE DELINQUENCY

I am grateful to you for pointing out the quite unaccountable error which has crept into my contribution to the "Symposium on Juvenile Delinquency." This was not in the original script, but it certainly appears in the typed copy sent to Cornell University, and for some reason escaped checking twice.

I agree with you, juvenile delinquency will always be with us; but I would add that much can be done to reduce it.

Yours faithfully,

GILBERT H. MUMFORD.

Justices' Clerk's Office,
14, Upper George Street,
Luton.

The Editor,

Justice of the Peace and
Local Government Review

DEAR SIR,

ENDORSEMENTS AND DISQUALIFICATIONS UNDER THE ROAD TRAFFIC ACTS

I read your informative article on this subject with interest. May I raise two further matters. First, perhaps not all your readers will have seen the decision of the High Court in Scotland that magistrates, when convicting of careless driving, may properly refrain from endorsing the defendant's driving licence if only a slight degree of carelessness has been proved. (*Smith v. Henderson* (1950) S.L.T. 182, noted in *Current Law*, June, 1950, para. 324).

I note your view in your article on endorsements and disqualifications, that a disqualification for twelve months imposed under s. 13 (Prohibition of Motor Racing and Speed Trials on Highways), s. 15 (Driving Motor Vehicles when under Influence of Drink or Drugs) or s. 35 (Users of Motor Vehicles to be Insured Against third party Risks) of the Road Traffic Act, 1930, may not be suspended pending an appeal under s. 6 (2). Would you therefore advise that on a conviction for an offence under any of those sections, the court should make an order disqualifying the defendant for twelve months and one day, to enable the disqualification to be suspended under s. 6 (2)?

Yours truly,

CAMBRIAN

[We are obliged to our correspondent. In answer to his second paragraph, s. 6 (2) enacts that the disqualification is to be suspended only if the court thinks fit, so that a court is required in each case to consider the propriety of allowing the suspension.

If we are correct in our view that the law in such cases (in the absence of special reasons), is that there is to be disqualification which is not to be suspended pending the hearing of an appeal we think it may be said to be improper to adopt an obvious device to prevent the law from operating normally.—Ed., J.P. & L.G.R.]

The Editor,

Justice of the Peace and
Local Government Review.

DEAR SIR,

CYCLING ON METROPOLITAN FOOTPATHS

Your interesting article on "Cycling on Metropolitan Footpaths" (at 114 J.P.N. 324), suggests certain difficulties which might arise were a byelaw to be framed in general terms under s. 249 of the Local Government Act, 1933, for the purpose of prohibiting cycling on footpaths which do not run at the side of carriageways.

It would seem, in the first place, that there might be a possible risk that such a byelaw would be held to be repugnant to the common law and/or statute. I assume that prolonged use by cyclists gives rise to a presumption of dedication to their use, either at common law or under the Rights of Way Act, 1932, just as does use by pedestrians or carriages. If this assumption is correct it would seem to follow that if a single footpath in the area of the authority making the byelaw could be shown to have been dedicated also to the use of cyclists the byelaw might be wholly invalid.

I realize that this proposition may, at first sight, seem rather extreme and that all byelaws are repugnant to the common law or to statute law in the sense that they invade territory outside the existing scope of either, but to prohibit cycling on a path dedicated (*inter alia*) for that purpose would surely constitute a direct negation of a positive common law or statutory right.

Even if my doubts on this score are not justified there would remain the difficulty of enforcement. The exact uses to which most highways have been dedicated are, in my experience, usually shrouded in the mists of time and I should approach the task of proving that any particular footpath was dedicated only as such with the greatest trepidation. This difficulty might be overcome to some extent by limiting the byelaw to named streets, the status of which seemed definitely ascertainable but an undesirable element of doubt would, in many cases, still persist.

An order under s. 46 of the Road Traffic Act, 1930, as amended, seems to me to be an infinitely less hazardous method of achieving the object desired.

Yours faithfully,

C. L. HOFFROCK GRIFFITHS,
Town Clerk.

Municipal Buildings,
Boston, Lincs.

[We agree generally with our learned correspondent, though we do not follow his meaning in the sentence which begins: "If this assumption is correct." We were not advocating the making of such a byelaw for all the paths in the borough or district. We were concerned to argue against a view of the law which might have prevented using s. 249 in certain cases where it could be helpful. Every path must be considered separately, and, upon many paths, the right of cycling is unquestionable and cannot be taken away by byelaw.—Ed., J.P. & L.G.R.]

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FORM OF BEQUEST

I hereby bequeath the sum of £ _____ to the
Imperial Cancer Research Fund (Treasurer, Sir Holburt
Waring, Bt.), at Royal College of Surgeons of England,
Lincoln's Inn Fields, London, W.C.2. for the purpose of
Scientific Research, and I direct that the Treasurer's receipt
shall be a good discharge for such legacy.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Animals—Cruelty to—Motorist accidentally injuring dog—Whether bound to take steps to prevent dog from suffering.

With reference to the enclosed press report could you say whether, in your opinion, it would have been an answer to both summonses if the defendant had reported the accident. If so, it would seem to your correspondent that he was prosecuted twice for omitting to do one act.

The case is of general interest to motorists and your correspondent is puzzled as to the logical effect of the court's decision; for instance if a motor driver is pursued by a vicious dog which collides with a wing and is hurt, must the motorist stop and attend to the dog? It seems difficult to regard a motorist on the highway as cruel to an animal which he has endeavoured to avoid or as being forced against his will into the position of responsibility for suffering, particularly if he observes s. 22 of the Road Traffic Act, 1930. Performance of his duty to report "as soon as reasonably practicable" rather tends to exclude the simultaneous duty to render veterinary assistance.

Your correspondent respectfully suggests that, had the defendant reported the accident, subsequently, liability for any suffering would have been at the door of the dog's owner or perhaps of the police. If this conclusion is incorrect, it would seem to follow that to render first aid without veterinary knowledge, and to risk being bitten, may be among a motorist's obligations.

STAY.

Answer.

The cutting referred to reports the prosecution of a driver (1) for causing unnecessary suffering to a dog by failing to give it proper attention after an accident and (2) for failing to report the accident. In respect of (1) he was fined and for (2) he was absolutely discharged. It was said that the defendant, unable to avoid two dogs, killed one and injured the other which he left howling. For the defence it was said that the defendant thought that the dog was not badly hurt.

The matters of attending to the injured animal and of reporting the accident are entirely separate and distinct, and arose under different enactments. The requirement of the Road Traffic Act has the object of facilitating proceedings in respect of the accident, whether such proceedings are criminal or civil, and was not intended solely in the interests of injured animals.

The question of cruelty is difficult, and though we do not criticize the decision of the justices who heard all the evidence, we are in agreement with our correspondent in thinking that there cannot be an absolute duty on a motorist to run the risk to which he refers, in every case in which he may have had an unavoidable accident. We are of course speaking of legal duty and not of what may be thought to be a moral obligation. There may be an offence, where the facts show that the motorist caused an animal unnecessary suffering by "wantonly or unreasonably... omitting to do any act." The real question is what a reasonable and humane person could be expected to do. Clearly he has not the same duty as an owner or a person in charge of an animal; but where he could reasonably relieve suffering or obtain help and takes no action he is liable to be convicted. We discussed this case at p. 291, *ante*, with a further reference at p. 388.

2.—Game—Poaching Prevention Act, 1862, s. 2—Forfeiture of game, etc.—Order of absolute discharge.

The penalty under this section is a fine not exceeding £5, and an order by the justices that the game, guns, nets, etc., be sold and the proceeds handed to the county treasurer. My justices recently had to deal with a case under this section and ordered an absolute discharge (s. 7 of the Criminal Justice Act, 1948). They also wished to invoke the provisions of s. 12 of the Act, and to avoid the consequences of a conviction, and adjourned their decision as to the disposal of the game, guns, nets, etc. I have my doubts about this course and am of opinion that s. 12 cannot be implemented in the circumstances. I shall be obliged for your views. SOA.

Answer.

We certainly share our correspondent's doubts, as we do not think it was competent for the justices, after convicting and absolutely discharging the defendant to adjourn the proceedings for further consideration. They were, we think, *functi officio*.

In our opinion, the justices were bound, on convicting the defendant under s. 2, *supra*, to order forfeiture as part of their decision. We do not consider that s. 12 of the Criminal Justice Act, 1948, has the effect that the justices wish to give to it; the forfeiture is not a disqualification or disability.

3.—Housing Act, 1949: s. 4—Advance on mortgage—Extent of permitted advance.

A local authority is asked to advance money for the purpose of converting into houses buildings which have been acquired by the applicant: Housing Act, 1949, s. 4 (1) (c). The building is already subject to a mortgage with a building society. The value of the building for mortgage purposes before the conversions is estimated at £3,000 and the conversions will cost £500. Under the provisions of s. 4 (3) (b), the applicant applies for a loan based upon ninety per cent. of the total value of the building as converted, £3,500. His intention is to repay the mortgage he holds from the building society out of the proceeds of the loan. It is claimed on behalf of the authority that they have no power under the section to advance money other than for the cost of the conversions and that the words in sub. (1) "for the purposes of" do not allow the authority to advance money to the full amount required. Applicant states that this is obviously incorrect by reason of the latter part of s. 4 (3) (b), and further claims that unless he repaid the mortgage to the building society he would be precluded from the advance so far as it relates to the conversions by reason of s. 4 (3) (f). I shall be glad if you can let me have the benefit of your opinion on these two conflicting contentions.

ADVA.

Answer.

We do not follow so much of the applicant's argument as rests upon s. 4 (3) (f), since his mortgage to the building society is presumably in modern form and he is still the freeholder. But upon the case generally we are inclined to agree with him. The mortgage is by s. 46 (3) (a) to be "a mortgage of lands the subject of the carrying out of the purpose," and surely the "lands" must mean the whole property. The whole property is therefore the "mortgaged security" mentioned in s. 46 (1) (b).

But, as we have said in answer to parallel questions under other Housing Acts our opinion is not for practical purposes so important as that of the adviser of the Minister, whose sanction will be needed for raising the money to be lent on mortgage, and no doubt you will verify that they support whichever line is taken.

4.—Landlord and Tenant—Rent Restrictions Act—Recovery of possession—Date of purchase.

A has a business over which he lives. His father, who is eighty-two years of age, lives with him, and at the present time is a very sick man. The living accommodation over the shop is very limited and totally unfit for any sick person. In order to get into the living quarters it is necessary to climb two flights of stairs. In another part of the town A has a dwelling-house now let to B at 30s. per week exclusive which A purchased in February, 1948. The property has four bedrooms, three reception rooms, and the usual offices. B was in occupation before the war and he has a wife and two children. A requires the property for his own use, and for facilities to enable him to better look after his father. Could A successfully sustain an action for possession? APOS.

Answer.

A is out of para. (b) in sch. 1 to the Act of 1933, upon his date of purchase. He must therefore go to the court under heading (b) in s. 3 (1) of that Act; in other words the court must be satisfied that there is suitable alternative accommodation as there defined.

5.—Licensing—Suffering gaming on licensed premises—Skittle competition for money's worth organized independently of licence holder—Whether an offence.

Would you kindly refer to *Lockwood v. Cooper* (1903) 67 J.P. 307 and to *Wellon v. Ruffles* (1919) 83 J.P. 271, which relate to decisions on the above named subject and advise what, in your learned opinion, is the position in the following quoted circumstances:

Skittling for a pig took place in the skittle alley which is part of the licensed premises. The organizers of the skittling competition are the local ploughing association. No charge is made by the licensee for the use of the skittle alley nor can he be proved to be interested in the competition in any way and neither is he connected with the ploughing association. The secretary of the association advertised the skittling match to all members of the general public inviting them to compete. An entrance fee of 6d. was paid by each competitor, and the entire proceeds went to the funds of the ploughing association. The pig was given by a third party as a present to the association.

In *Wellon v. Ruffles* an agent for the licensee collected the entrance fees, the agent keeping part and a hospital getting part. The brewers

gave the kettle and therefore both licensee and brewers were held to be interested persons. In *Lockwood v. Cooper* the material difference I see in the circumstances of that case and those I have quoted is that in the former 1s. 6d. was paid by each player towards the hire of the room and refreshments (apart from the 5s. paid by those as club members) whereas in the latter, 6d. is paid by each person to enter the competition to skittle for a pig. Also in the former, members of the club and their friends played, whereas in the latter, members of the general public played.

I should be grateful for your valued opinion as to whether in the circumstances stated, gaming has taken place on licensed premises, contrary to s. 79 of the Licensing (Consolidation) Act, 1910.

N. "POLY."

Answer.

The decision in *Lockwood v. Cooper* (1903) 67 J.P. 30, mentioned by our correspondent, should not be accepted as good authority except in relation to the particular facts and circumstances which emerged therein (see the closing words of the judgment of Sankey, J., in *Welton v. Ruffles* (1919) 83 J.P. 271).

The facts outlined by our correspondent are not easily distinguishable from the facts in *Welton v. Ruffles*: in that case the brewers offered the prize "because they thought that it would attract customers to the premises, and consequently more trade would be done" (per Lord Reading, C.J.), and in the case now discussed it would be open to the justices to find that the free use of the skittle alley was allowed for the same reason.

Previous decisions on this nice point were reviewed by Avory, J., who said: "... the result of this is that playing at any game of chance or skill on licensed premises for money or money's worth is gaming within the meaning of s. 79 of the Licensing (Consolidation) Act, 1910," and by Sankey, J., who said: "The result of those decisions appears to me to be this, that the playing of any lawful game of skill for money or money's worth on licensed premises is gaming within this enactment, and renders the licensee liable to conviction if he permits it."

We are in no doubt that the facts outlined by our correspondent disclose an offence by the licensee holder, notwithstanding that the competition was independently organized.

6.—Local Government Act, 1933—Change of name of village.

The highways department of the county council has erected a sign indicating a hamlet in the county. A request has been received from some of the residents of the hamlet for the removal of the sign or the alteration of the name, on the ground that the name shown is the cause of offensive remarks. The name of the hamlet shown on the sign is the name indicated on the ordnance survey map. The only provisions for the alteration of a place-name that can be found are in s. 147 of the Local Government Act, 1933, but in this case the name of the hamlet differs from the name of the rural parish in which it is situated, and the view is taken that the provisions of this section do not therefore apply. It would be appreciated if you could indicate any powers for the alteration of the name of the hamlet in this case. The highway authority can presumably place any name they think fit on the sign.

AGIDA.

Answer.

We agree that s. 147 of the Act of 1933 is the only statutory authority for the changing of place names by a local authority, and that that section is not available here. We agree also that the authority putting up a signpost can have painted on it any name which in fact indicates the place. The law has assumed that place names are static; they are always rooted in history, often venerable. The name on the ordnance map has probably attached to the hamlet throughout its existence, and we think the county council ought to hesitate long about calling it something else, even upon a signpost. A name which some vocal residents find objectionable may nevertheless be treasured by the mute majority as part of their local heritage.

7.—Local Land Charges—Fees—Certificate search—Office copy.

Will you please advise whether a charge of 2s. 6d. can be made for each schedule to the official certificate of search.

If the charge cannot be made, what is the difference between an office copy of any entry in the register and the information given in the schedule?

Answer.

ARCT.

Since the schedule of fees provides for a search fee which includes the certificate, with differences according as one part or the whole is searched, with additional fees for extra parcels, it does not seem that further fees can be charged. The difference between an office copy and a certificate of search, with schedule, lies in the evidential value of the latter: s. 14 of the Evidence Act, 1851. It requires a stamp duty of 1s. in addition to the fee: see the Stamp Act, 1891. The rules seem to contemplate the certificate with schedule as being normally furnished, since the office copy is not mentioned in the body of the rules, but only in the fees schedule.

8.—Public Health Act, 1936—House drain converted to private sewer—Vesting.

In this rural district a large house was recently sold, and the new owner made structural alterations dividing it into four separate dwelling places, and then proceeded to sell each separate dwelling place. Before this took place, the large house was connected by a drain to a septic tank in an adjoining field. This field is now in the ownership of a person not connected with the house. All four separate dwelling places are now connected to the drain which runs into the field. I should be glad of your opinion as to whether you consider that the drain in question now becomes a public sewer, and that the local authority is responsible for its upkeep and also of the cesspool.

ALT.

Answer.

No. The rights and liabilities of the vendor, the purchasers, and the owner of the field cannot as between themselves be seen from the particulars given, but on those particulars the local authority have no property in the sewer or the cesspool.

9.—Road Traffic Acts—"Road"—Private bus station with entrances on to public road—Foot passengers (travelling or not) have free access—Is an accident there within s. 22 of the 1930 Act?

A bus station belongs to a private company, and is apparently closed (no access being allowed) for certain hours during the night when the buses are not running. In the daytime, there is free access to any member of the public, whether travelling by bus or not, and any one can walk through the station. The entrance leads off from a busy public road and the exit leads on to the same road. There are no other exits or entrances from or to the station. An accident recently occurred within the station and it has been suggested that proceedings under s. 22 of the Act might be taken. I am very dubious as to this.

JUA.

Answer.

This is a borderline case, but we think that on the authority of *Bogge v. Taylor* (1940) 104 J.P. 467, it could be said that this is a road within the meaning of s. 22.



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OFFICIAL ADVERTISEMENTS, TENDERS, ETC. (contd.)

LONDON COUNTY COUNCIL

APPLICATIONS are invited for appointment as Solicitor and Parliamentary Officer at a salary of £3,000 a year. The duties of the position include those of legal adviser to the Council and the conduct of all its legal and parliamentary work. Application forms giving full particulars (stamped, addressed, foolscap envelope necessary), are obtainable from the Clerk of the Council (C.L.G.), The County Hall, Westminster Bridge, S.E.1., and must be returned not later than September 21, 1950. Canvassing disqualifies. (1080)

COUNTY BOROUGH OF SOUTHEND-ON-SEA**Legal Clerk**

APPLICATIONS are invited for the appointment of a Legal Clerk in the Town Clerk's Department. Salary Grade A.P.T. II (£420-£465 p.a.). The appointment, which will be terminable by one month's notice on either side, will be subject to the National Joint Council's conditions of service as applied by the Town Council and to the provisions of the Local Government Superannuation Act, Medical examination.

Candidates should possess a good knowledge of conveyancing and should have had experience in a local government or legal office.

Applications, stating age and particulars of experience and accompanied by not more than three testimonials, must reach me not later than September 9, 1950.

Canvassing will disqualify.

ARCHIBALD GLEN,
Town Clerk.

August 9, 1950.

DEVON COUNTY COUNCIL**Appointment of Assistant Solicitor**

APPLICATIONS are invited for the above whole-time appointment in accordance with Grade X of the National Joint Council's scale, viz., £850 rising by annual increments of £50 to £1,000 per annum.

Applicants must have a sound knowledge of conveyancing. Local government experience is desirable but not essential. The selected candidate will be required to pass a medical examination and contribute to the Council's Superannuation Scheme. The appointment will be terminable by three months' notice on either side.

Applications, stating present salary, age, and details of experience, together with the names of two persons to whom reference may be made, should be forwarded to me not later than September 2, 1950.

The Council are not yet able to provide housing accommodation, but a weekly allowance of 25s. and bi-monthly return fare home will be paid, for a period of not exceeding six months, to the successful candidate, if married, if he has to maintain a family in another home away from Exeter.

Canvassing in any form will disqualify.

H. A. DAVIS,
Clerk of the Council.

The Castle,
Exeter.

August 4, 1950.

BOROUGH OF CHATHAM**Committee Clerk (Male)**

APPLICATIONS are invited for the above appointment at a salary of £420 x £15-£465 per annum (Grade II A.P.T. Division).

Full details of the terms of the appointment can be obtained from the undersigned by whom applications must be received by August 31, 1950.

ROWLAND NEWNES,
Town Clerk.

Town Hall,
Chatham.

BOROUGH OF TAUNTON**Town Clerk's Department—Chief Clerk**

APPLICATIONS are invited for the appointment of Chief Clerk in the Town Clerk's Department within the range of Grades A.P.T. IV and V of the National Scale of Salaries (£480-£570 per annum) according to experience and qualifications.

Applicants should be familiar with all the administrative functions of a Municipal Corporation, and possess a detailed knowledge of the work of a Town Clerk's Department.

Consideration will be given to housing accommodation, if required.

Application forms and further particulars can be obtained from the undersigned, to whom completed applications should be sent not later than August 28, 1950.

Canvassing will disqualify.

L. ATWELL,
Town Clerk.

Municipal Buildings,
Taunton.

NORTHUMBERLAND AND TYNESIDE RIVER BOARD**Appointment of Clerk**

APPLICATIONS are invited for the appointment of clerk to the above Board, which has lately been established under the River Boards Act, 1948, and is responsible for land drainage works, the prevention of river pollution, fisheries and other duties under the Act.

The clerk will be responsible as chief executive officer for the co-ordination and supervision of the Board's activities. Salary range £1,250 to £1,500 according to age, experience and qualifications. Applicants should preferably be barristers or admitted solicitors, and previous service with a local government authority, catchment board, or fishery board will be an advantage.

The appointment will be on a whole-time basis and will be subject to the Local Government Superannuation Act, 1937, to the National Conditions of Service as adopted by the Board, and to three months' notice on either side. The successful candidate will be required to pass a medical examination to the satisfaction of the Board before his appointment is confirmed.

Applications, on a form to be obtained from the Acting Clerk to the Northumberland and Tyneside River Board, County Hall, Newcastle upon Tyne, should be sent to him so as to be received not later than Wednesday, September 20, 1950.

COUNTY OF DENBIGH**Appointment of Senior Assistant Solicitor**

APPLICATIONS are invited from admitted Solicitors for the post of Senior Assistant Solicitor in the office of the Clerk of the Peace and of the County Council. The salary will be according to the scale £650 x £25-£750 but the grading of the post is to be reviewed shortly.

Applicants must be skilled in conveyancing and advocacy, and local government experience will be a considerable advantage.

The appointment will be subject to the general Conditions of Service applicable to the County Council's Staff, and to the provisions of the Local Government Superannuation Act, 1937. The successful candidate will be required to pass a medical examination and his appointment will be terminable by two calendar months' notice on either side.

Canvassing, directly or indirectly, will disqualify.

Applications, stating age, education, qualifications and experience, together with copy of one recent testimonial and the names of two referees, must reach the undersigned not later than September 9, 1950.

W. E. BUFTON,
Clerk to the County Council.

County Offices,
Ruthin.

COUNTY BOROUGH OF DEWSBURY**Appointment of Chief Constable**

APPLICATIONS are invited for the appointment of Chief Constable at a salary of £1,050 per annum, rising by annual increments of £50 to a maximum of £1,200 per annum, being the scale prescribed by the Secretary of State. Rent allowance or, alternatively, housing accommodation will be provided, together with other usual emoluments.

Applicants must be qualified in accordance with Police Regulations.

The appointment will be subject to the Police Pensions Acts and Regulations made thereunder and to three months' notice on either side. The person appointed will be required to pass a medical examination.

The person appointed will be required to devote the whole of his time to the duties of the office, and to undertake such duties from time to time as may be properly assigned to him in addition to his ordinary police duty. He will be required to reside within the borough.

Applications, stating age, experience, qualifications and present and previous appointments, together with copies of not more than three recent testimonials, endorsed "Chief Constable," must be received by the undersigned not later than September 7, 1950.

Canvassing in any form is strictly prohibited and will be deemed a disqualification.

A. NORMAN JAMES,
Town Clerk.

Town Clerk's Office,
Dewsbury.
August 18, 1950.

FOR SALE

105 VOLUMES of Justices of the Peace Reports and Year Books, from year 1872 to date, for sale. Offers invited. Philip B. Beecroft Town Clerk, Municipal Offices, High Wycombe, Bucks.

CITY AND COUNTY OF THE CITY OF LINCOLN

Appointment of Senior Assistant Solicitor

APPLICATIONS are invited for the above-mentioned appointment at a salary in accordance with Grade A.P.T. VIII (£685 x £25—£760 p.a.) of the National Salary Scales. Applicants must possess good experience in conveyancing and advocacy and some local government experience is essential.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and the successful applicant will be required to pass a medical examination. Housing accommodation is available.

Applications, stating age, qualifications, experience, and the names and addresses of three persons to whom reference can be made, must reach me not later than August 28, 1950.

Canvassing, directly or indirectly, will disqualify.

J. HARPER SMITH,
Town Clerk.

Town Clerk's Office,
Lincoln.
August 4, 1950.

ASSOCIATION OF MUNICIPAL CORPORATIONS

Assistant Secretary

APPLICATIONS are invited from solicitors for appointment as an Assistant Secretary to the Association. Local government experience is essential. Salary £1,250 rising by annual increments of £50 to £1,500 per annum.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and to a satisfactory medical examination, and will be determinable by three months' notice on either side.

Applications, stating age, qualifications including date of admission, experience and the names of three persons to whom reference can be made, should be sent to the undersigned within twenty-one days from the publication of this advertisement.

Personal Secretary

APPLICATIONS are invited for the appointment of personal secretary to the Secretary of the Association. Knowledge of shorthand and typing is essential.

Preference will be given to candidates between the ages of twenty-five and thirty-five who are graduates and have had local government experience.

Salary will be dependent on the qualifications and experience of the successful applicant and will be between £350 and £435.

This appointment is also subject to the provisions of the Local Government Superannuation Act, 1937, and to a satisfactory medical examination and will be determinable by one month's notice on either side.

Applications, stating age, qualifications and experience with the names of two persons to whom reference can be made, should be sent to the undersigned within fourteen days from the publication of this advertisement.

G. H. BANWELL,
Secretary.

Palace Chambers,
Bridge Street,
Westminster, S.W.1.

COUNTY OF KENT

Appointment of Male Probation Officer

THE Kent Combined Probation Committee invites applications for the appointment of a male whole-time Probation Officer to serve in the Kent Combined Probation Area.

The appointment will be subject to the Probation Rules, 1949, and the salary will be in accordance with the scale provided in the Rules. The appointment is superannuable.

Applicants must be qualified to deal with probation cases, matrimonial differences and other social work of the Courts.

The selected candidate will be required to pass a medical examination.

Applications, stating age, experience and educational qualifications, together with copies of not more than three recent testimonials, should be sent to the undersigned within fourteen days of the appearance of this advertisement.

W. L. PLATTS,
Clerk of the Peace.

County Hall,
Maidstone.
August 15, 1950.

BOROUGH OF WILLESDEN

Appointment of Chief Law Clerk

The Council invite applications for the appointment of Chief Law Clerk on the permanent staff of the Town Clerk's Department.

The salary attaching to the post will be in accordance with A.P.T. Grade VI of the National Salary Scales for the London Area, namely £625—£690 per annum rising by two increments of £20 and one of £25.

Application must be made on a form obtainable from the undersigned, to whom it must be returned not later than 10 a.m. on Monday, September 4, 1950.

Canvassing, directly or indirectly, will disqualify.

R. S. FORSTER,
Town Clerk.

Town Hall,
Dyne Road,
Kilburn N.W.6.

INQUIRIES

DETECTIVE AGENCY (HOYLAND'S)

(T. E. Hoyland, ex-Detective Sergeant);
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Review

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Southwark, London, S.E.1**

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THE

DOGS' HOME Battersea

INCORPORATING THE TEMPORARY
HOME FOR LOST & STARVING DOGS
4, BATTERSEA PARK ROAD

LONDON, S.W.8,

AND
FAIRFIELD ROAD, BOW, E.
(Temporarily closed)

OBJECTS:

1. To provide food and shelter for the lost, deserted, and starving dogs in the Metropolitan and City Police Area.
2. To restore lost dogs to their rightful owners.
3. To find suitable homes for unclaimed dogs at nominal charges.
4. To destroy, by a merciful and painless method, dogs that are diseased and valueless.

Out-Patients' Department (Dogs and Cats only) at Battersea, Tuesdays and Thursdays - 3 p.m.

Since the foundation of the Home in 1860 over 1,925,000 stray dogs have received food and shelter.

Contributions will be thankfully received by E. L. HEALEY TUTT, Secretary.

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